

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K**

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

For the fiscal year ended December 31, 2021

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-38285

**BANDWIDTH INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

56-2242657

(I.R.S. Employer  
Identification Number)

**900 Main Campus Drive  
Raleigh, NC 27606**

(Address of principal executive offices) (Zip Code)

**(800) 808-5150**

(Registrant's telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act:

Title of each class

Class A Common Stock, par value \$0.001 per share

Trading Symbol(s)

BAND

Name of each exchange on which registered

NASDAQ Global Select Market

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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

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

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

The aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant as of June 30, 2021, the last business day of the registrant's most recently completed second fiscal quarter, was \$3.3 billion based upon the closing price reported for such date on the NASDAQ Global Select Market.

As of February 18, 2022, 23,242,813 shares of the registrant's Class A common stock and 1,965,170 shares of registrant's Class B common stock were outstanding, respectively.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's Definitive Proxy Statement for the 2022 Annual Meeting of Stockholders are incorporated herein by reference in Part II and Part III of this Annual Report on Form 10-K to the extent stated herein. Such Definitive Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the registrant's fiscal year ended December 31, 2021.

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**Annual Report on Form 10-K**  
**For the Year Ended December 31, 2021**  
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### Special Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements contained in this Annual Report on Form 10-K, other than statements of historical fact, are forward-looking statements. Forward-looking statements generally can be identified by the words “may,” “will,” “expect,” “believe,” “anticipate,” “intend,” “could,” “would,” “project,” “plan,” “estimate,” or “continue,” or the negative of these words or other similar terms or expressions that concern our expectations strategy, plans or intentions. Forward-looking statements contained in this Annual Report on Form 10-K include, but are not limited to, statements about:

- our expectations about the impact of public health epidemics, such as COVID-19 (as defined herein), or natural disasters on the global economy and our business, results of operations and financial condition;
- our ability to attract and retain customers, including large enterprises;
- our approach to identifying, attracting and keeping new and existing customers, as well as our expectations regarding customer turnover;
- our beliefs regarding network traffic growth and other trends related to the usage of our products and services;
- our ability to successfully defend our network, systems and data against ever-evolving cybersecurity threats, including denial-of-service and ransomware attacks;
- our expectations regarding revenue, costs, expenses, gross margin, dollar based net retention rate, adjusted EBITDA, non-generally accepted accounting principles in the United States of America (“GAAP”) net income and capital expenditures;
- our beliefs regarding the growth of our business and how that impacts our liquidity and capital resources requirements;
- the sufficiency of our cash and cash equivalents to meet our liquidity needs;
- our ability to attract, train, and retain qualified employees and key personnel;
- our beliefs regarding the expense and productivity of and competition for our sales force;
- our expectations regarding headcount;
- our ability to maintain and benefit from our corporate culture;
- our plans to further invest in and grow our business, including international offerings, and our ability to effectively manage our growth and associated investments;
- our ability to introduce new products and services and enhance existing products and services;
- our ability to successfully integrate and benefit from any strategic acquisitions, including our acquisition of Voxbone (as defined herein), or future strategic acquisitions or investments;
- our ability to effectively manage our international operations and expansion;
- our ability to compete successfully against current and future competitors;
- the evolution of technology affecting our products, services and markets;
- the impact of certain new accounting standards and guidance, as well as the time and cost of continued compliance with existing rules and standards;

- our beliefs regarding the use of Non-GAAP financial measures;
- our ability to comply with modified or new industry standards, laws and regulations applicable to our products, services and business, including the General Data Protection Regulation (“GDPR”), the California Consumer Privacy Act of 2018 and other privacy regulations that may be implemented in the future, and Secure Telephone Identity Revisited and Signature-based Handling of Asserted Information Using toKENs and other robocalling prevention and anti-spam standards and increased costs associated with such compliance;
- our customers’ violation of our policies or other misuse of our platform;
- our ability to manage fees that have been or may be instituted by network providers that increase our costs;
- our ability to maintain, protect and enhance our intellectual property;
- our expectations regarding litigation and other pending or potential disputes;
- our ability to service the interest on our Convertible Notes (as defined herein) and repay such Convertible Notes, to the extent required; and
- other risks related to our indebtedness.

We caution you that the foregoing list may not contain all the forward-looking statements made in this Annual Report on Form 10-K.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this Annual Report on Form 10-K primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations and prospects. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties and other factors described in the section titled “Risk Factors” and elsewhere in this Annual Report on Form 10-K. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this Annual Report on Form 10-K. We cannot assure you that the results, events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events or circumstances could differ materially from those described in the forward-looking statements.

The forward-looking statements made in this Annual Report on Form 10-K relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this Annual Report on Form 10-K to reflect events or circumstances after the date of this Annual Report on Form 10-K or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

### **Risk Factors Summary**

The following is a summary of the principal risks that could adversely affect our business, results of operations and financial condition.

#### ***Risks Related to Our Business***

- Our future growth and the success of our expansion plans depend on a number of factors that are beyond our control.
- The COVID-19 pandemic and efforts to contain it may harm our business.
- The market in which we participate is highly competitive, and we may not compete effectively.
- We may not be able to attract new customers in a cost-effective manner.

- The market for some of our services is new and unproven, and may decline or experience limited growth.
- We must increase the network traffic and revenue to meet our growth targets.
- Our business depends on customers increasing their use of our services.
- We may not be able to increase the revenue that we derive from enterprises.
- We may not be able to develop service enhancements or new services that achieve market acceptance.
- We have grown rapidly, and may not be able to manage the growth effectively.
- Our pricing and billing systems are complex, and errors could adversely affect our results of operations.
- We must continue to develop effective systems to support our business.
- We may not be able to maintain and enhance our brand and increase market awareness.
- Failure to deliver high-quality support may adversely affect our customer relationships.
- We operate internationally, which exposes us to significant risks.
- Our revenue is concentrated in a limited number of enterprise customers.
- Attacks on or breaches of our networks or systems, or on those of third parties on which we rely, including denial-of-service and other cyberattacks, may result in disruption to our services, which could harm our business.
- We are currently subject to litigation, including litigation related to taxes and charges associated with our provision of 911 services and litigation related to our alleged failure to block unsolicited phone calls.
- We are subject to litigation in the ordinary course of business, which may harm our business.
- Customer misuse of our services and software could result in litigation and harm our business.
- The communications industry faces significant regulatory uncertainties.
- The effects of increased regulation of IP-based service providers are unknown.
- We must obtain and maintain numerous licenses and permits, in the United States and internationally, to operate our network.
- If we violate regulatory requirements that apply to our operations, we may not be able to conduct our business.
- The FCC's repeal of its Network Neutrality Rules could harm our business.
- Our business is subject to complex and evolving laws, commercial standards, contractual obligations and other requirements regarding privacy and data protection.
- Our business may be harmed if we cannot obtain, retain and distribute local or toll-free numbers.
- We may be exposed to liabilities under anti-corruption, export control and economic sanction regulations.
- Third party intellectual property rights could prevent us from using technologies needed to provide our services.
- Our use of open source software could negatively affect our ability to sell our services and subject us to litigation.
- Indemnity provisions in various agreements potentially expose us to substantial liability.
- We may fail to protect our internally developed systems, technology and software and our intellectual property.
- We may be liable for the information that content owners or distributors distribute over our network.
- Third parties may use our services to commit fraud or steal our services.
- We may lose customers if our platform or network fails or is disrupted.
- Defects or errors in our services could harm our business.
- If our emergency services do not function properly, we may be exposed to significant liability.
- Termination of relationships with key suppliers could cause delay and additional costs.
- Our customer churn rate may increase.
- The prices for some of our services have decreased in the past and may do so again in the future.
- The need to obtain additional IP circuits or interconnect with other networks could increase our costs.
- The loss of any member of our senior management team or key employees could harm our business.
- If we are unable to hire, retain and motivate qualified personnel, our business will suffer.
- We could be subject to liability for historic and future sales, use and similar taxes.
- We may be subject to significant tax-related liabilities and indemnity obligations if the Spin-Off (as defined below) is taxable.
- Our estimates or judgments relating to our critical accounting policies may prove to be incorrect.
- We may be unable to maintain an effective system of disclosure controls and internal control over financial reporting.
- If our goodwill or intangible assets become impaired, we may be required to record a significant charge.
- Foreign currency exchange rate fluctuations may harm our business.
- Natural disasters, pandemics, power outages, terrorist attacks, acts of war, civilian unrest and similar events could harm our business.
- We may acquire other businesses, which may divert our management's attention and impact our stock price.

***Risks Related to the Acquisition of Voxbone***

- The Voxbone acquisition may not yield the synergies and other benefits that we anticipated.

***Risks Related to the Convertible Notes***

- Servicing our future indebtedness may require a significant amount of cash, which we may not have.
- We may not have the ability to raise the funds necessary for cash settlement of the Convertible Notes.
- The accounting method for our Convertible Notes could have a material effect on our financial results.
- The capped call transactions may affect the value of the Convertible Notes and our Class A common stock.

***Risks Related to Ownership of Our Class A Common Stock***

- The trading price of our Class A common stock may be volatile and you could lose all or part of your investment.
- Substantial future sales of shares of our Class A common stock could cause the price of our Class A to decline.
- Our dual class capital structure concentrates voting control.
- We cannot predict the impact our capital structure may have on our stock price.
- Our stock price and trading volume could decline if securities or industry analysts stop covering our Class A Common Stock.
- Anti-takeover provisions in our organizational documents and Delaware law, could impair a takeover attempt.
- Our certificate of incorporation and bylaws include super-majority voting provisions.
- Our bylaws provide that Delaware will be the sole and exclusive forum for certain stockholder litigation.
- We may need additional capital in the future and such capital may be limited or unavailable.
- We do not intend to pay dividends for the foreseeable future.

## PART I - FINANCIAL INFORMATION

### Item 1. Business

#### Overview

A global communications transformation is underway, and we believe Bandwidth is at the center. Our mission is to develop and deliver the power to communicate. Through the Bandwidth platform, we enable innovative organizations—from startup app developers to the world's largest enterprises—to engage their end-users and deliver exceptional experiences everywhere people live, learn, work and play. Backed by our global network of more than 60 countries reaching over 90 percent of global gross domestic product (“GDP”), innovative enterprises use Bandwidth’s Application Programming Interfaces (“APIs”) to easily embed voice, messaging and emergency services capabilities into software and applications. Bandwidth was the first CPaaS provider to offer a robust selection of APIs built on our own network. Our award-winning support teams help businesses around the world solve complex communications challenges every day.

Our business benefits from multiple global megatrends, including the enterprise migration to the cloud, the adoption of Contact Center as a Service platforms, the need to be able to work from anywhere, the reinvention of customer experience and the growth in messaging and video applications to engage directly with consumers. We believe these megatrends, which have created sizable total addressable markets, are secular, long-lasting and still early in the adoption curve.

With the combination of our software APIs and our global network, we believe the Bandwidth platform is well-positioned to deliver mission-critical communications for the enterprise. In fact, Bandwidth powers all the 2021 Gartner<sup>®</sup> Magic Quadrant Leaders in Unified Communications as a Service (“UcaaS”), Contact Center as a Service (“CcaaS”) and Meeting Solutions.

Our long-term vision is to continue strengthening this position as the key enabling platform for communications transformation. We will seek to do this in three ways: (1) by cross-selling and up-selling within our existing customers as they benefit from our global footprint and powerful APIs to automate and scale their cloud communications platforms; (2) by focusing on enterprise growth to become the best platform for large enterprises seeking best-of-breed communications solutions for their tech stack and (3) to win in the Software and Applications space by becoming the best global platform for large app developers focused on digital engagements that revolutionize the enterprise customer experience. These three strategies are the foundation of the durable business we are seeking to build.

#### Operating Segments

We have two reportable segments, CPaaS and Other. Segments are evaluated based on revenue and gross profit. We do not allocate operating expenses, interest expense or income tax expense to our segments. Accordingly, we do not report such information. CPaaS segment revenue is derived from reoccurring sources such as per-minute voice usage and voice calling, per-text message usage and other usage services and fees and from monthly recurring charges arising from phone number services, 911-enabled phone number services, messaging services and other services. The remainder of our revenue not classified in our CPaaS segment is generated by our Other segment. Other segment revenue is derived from various communications services and products, indirect revenue and messaging surcharge revenue. See Note 10, “Segment and Geographic Information” in our consolidated financial statements included elsewhere in this Annual Report on Form 10-K, for additional information about our segments.

#### Go-to-Market Strategy

Bandwidth’s go-to-market strategy is designed around the global shift from on-premises based technology to cloud-based communications software. Bandwidth’s enterprise-grade communications platform serves and benefits from two phases of digital transformation:



- Phase 1: Powering the platforms at the forefront of the communications transformation in categories including Unified Communications as a Service Platforms, Contact Center as a Service Platforms, and Digital Engagement Platforms.
- Phase 2: Powering Global Fortune 2000 adoption of these cloud communications platforms.

### **Phase 1: Powering Cloud Communication Platforms**

Our most long-term, strategic customer relationships are those in the Cloud Communications space, including Microsoft, Google, Zoom, RingCentral, Genesys, and Five9. These companies rely on Bandwidth's platform to deliver the voice, messaging, and emergency services that are central to their own user experiences. The bottom line: when Bandwidth innovates, the cloud communications space moves forward.

In addition, many brands choose to build their own applications—we believe Bandwidth's unique combination of network expertise, coverage, and API-first mentality create a best-in-class platform for SaaS and consumer app product owners, particularly those looking for a partner that can deliver mission-critical, scalable communications.

#### ***Work Communications Platforms***

In a world of remote and hybrid work, the Unified Communications market has never been more critical. Bandwidth powers all the major Unified Communications platforms, giving them access to platform-centric voice, emergency, and messaging capabilities. We believe Bandwidth is a key partner in enabling the entire industry to innovate, particularly with areas like customer onboarding and troubleshooting, where our APIs expedite customer onboards with real-time number ordering and porting.

These platforms are global in nature, and expect a communications partner who can deliver direct global coverage and regulatory insight around the world. Bandwidth's platform is built with these customers in mind, delivering global reach where it matters most. Our APIs also help their enterprise customers comply with E911 requirements in the United States for dynamic address provisioning and SMS alerting. Bandwidth's network architecture prioritizes owned and operated coverage wherever possible, to deliver cost and qualitative benefits as well as a seat at the regulatory table.

One of Bandwidth's key UCaaS customers is a long-standing, global leader for team collaboration, agnostic of industry verticals and across multiple continents. This customer uses Bandwidth's suite of APIs to programmatically deliver voice and E911 services, along with the programmatic onboarding and provisioning of new phone numbers, to enable a seamless customer experience through its native calling plans—available direct from their platform. Bandwidth's APIs eliminate the need for manual number management, allowing them to provision services for their all-in-one solution in real-time. Our strategic partnership has led to new developments in dynamic location routing through E911 technology. These Bandwidth-led E911 innovations are scalable across our other UCaaS customers to enable compliant emergency solutions for their customers as well.

#### ***Contact Center Platforms***

Bandwidth is a driving force of communications innovation behind the dominant global contact center platforms, powering all of the leaders in Gartner's 2021 Magic Quadrant for CCaaS. These CCaaS providers compete to create the best software platform and portfolio of offerings to enable exceptional customer experience (CX). That competition drives the need for highly resilient and reliable core capabilities like toll-free voice and messaging, which are powered by software and delivered on a global scale.

We believe Bandwidth's toll-free voice solution is a major reason these contact center platforms build with Bandwidth for their North American traffic. Offering 5X redundancy, our own toll-free voice network is directly peered with four additional network partners, offering customers greater peace of mind. Whenever possible, Bandwidth keeps calls on its own network to enable excellent quality and better ROI. Our four additional peered networks further enable best-in-class coverage as well as resilience—if one network experiences quality-impacting

issues, calls can be routed to a different network seamlessly, before impacts are even felt. In addition to utilizing Bandwidth's toll-free services, these platforms also find that Bandwidth's global number availability and National Operator status is an invaluable asset to them as they expand their services across EMEA, LATAM, and APAC.

Bandwidth's competitive strength isn't just limited to carrier infrastructure. Our suite of APIs is leveraged by CX-focused customers to power innovation for their end-users—offering CCaaS platforms instant access to programmable number management (ordering, porting, provisioning) so they can customize their customer journeys, embed our global communications into their world-class platforms and reduce friction to achieve near-real time onboards. Forward-leaning contact centers are also leveraging our programmable voice, messaging and video APIs to craft a more mobile and digital-centric experience.

A long-time CCaaS customer initially chose to work with Bandwidth because we were the cloud-native carrier they needed to digitally transform their own platform. Utilizing our software-powered network capabilities, this customer created calling plans for their cloud customers. This customer was also a pioneer in programmatic Bring Your Own Carrier (“BYOC”), co-marketing with us since 2018, and laying the groundwork for more success with large enterprises down the road, via our Duet™ portfolio.

### ***Brand-to-Customer Engagement***

The rules of how consumers engage with the brands they trust have been re-written in a new era of digital customer experience. Preferred communication channels, expected reliability and ease of interactions are driving an increased focus on customer engagement and loyalty for businesses of all types and sizes across the globe. This is where a high-growth category of brand-to-consumer engagement platforms has emerged, which we call our Software-as-a-Service and Application (SaaS/Apps) customers. These digital-native innovators are transforming customer engagement, unleashing new channels, enabling automation and simplifying interactions for their own customers who operate across a wide range of industries—including healthcare, fintech, hospitality, transportation, e-commerce and retail. Bandwidth's robust messaging, emergency, and voice APIs help these platforms and applications build better digital experiences for the brands that rely on them.

Messaging, the main product leveraged by this segment of customers, accounted for about 13% of our CPaaS revenue in 2021. We continue to see growth here as big brands use our customers' applications to communicate directly with their own consumers, building engagement and loyalty. Bandwidth offers developers a full suite of business Application to Person (A2P) messaging solutions, supporting both SMS and MMS on Local Numbers (10DLC), Toll Free Numbers, and Short Codes. All our solutions support bi-directional unicode, including emojis.

An example customer in this category is our steadily-growing relationship with one of the world's leading decentralized finance and digital payment companies. In 2018, this company turned to us for enterprise-grade, toll-free messaging to enable digital receipts, promotional notifications, appointment reminders, and payroll notifications for their customers. Based on Bandwidth's proven success delivering these mission-critical communications, a year later, they asked us to enable a new use case in a separate business unit: messaging related to peer-to-peer payments, fractional stock purchases, and other notifications. More recently, as this company rolled out yet another new channel of communication, it once again turned to Bandwidth as its trusted provider. This new channel allows for multiple forms of two-way messaging engagement between merchants and customers, spanning sales, marketing, and support communications. Our growth with this customer—powering new use cases across business units—shows how the Bandwidth Platform can drive communications innovation for the world's most innovative companies.

### **Phase 2: Powering enterprise adoption of cloud communications platforms**

While small and medium sized businesses were quick to adopt new cloud platform technology, the largest enterprises have lagged behind because of their inherently complex migration path. This complexity has resulted from a mixture of different service providers, legacy infrastructure, critical integrations and proprietary technologies. These large enterprises (Global Fortune 2000) often find they have new needs like better cost

structure, access to a global footprint, or help tackling complex integrations that can't be met by either their legacy telephony partners or the platforms themselves.

Bandwidth addresses these migration challenges by enabling enterprises to unbundle telephony from their UCaaS or CCaaS platforms and choose Bandwidth as their underlying communications partner. Bandwidth utilizes software-driven tooling alongside the power of its open cloud communications platform for real-time access to phone numbers around the world, carrier-grade SIP-trunking, business text messaging and emergency services delivered via our unique Duet™ solutions.

By partnering with Bandwidth, global enterprises can reduce complexity, gain greater control of their employees' workstations (both knowledge workers or contact center agents), centralize communication resources and operational workloads, and better prepare for future scale as they move business communications to and around the cloud. We believe Bandwidth's history as an enabler to the cloud communications platforms creates additional competitive benefits such as deep automation of communications services, enterprise-grade quality and support, as well as deep operational relationships with some of the largest UCaaS and CCaaS platforms.

***Key Global Enterprise Use Case: UC for the Global, Dynamic Workforce***

Unbundling telephony and deploying a BYOC solution such as Bandwidth's Duet™ solutions enables IT leaders to centralize their communications across their CCaaS and also UCaaS platforms, making it easier to manage emergency services, phone numbers, employee station set-up and tear-down, platform migration, and connectivity across multiple platforms and geographies. E911 and emergency connectivity can be a particular challenge to these companies—especially as the workforce becomes increasingly dynamic and remote. Bandwidth's dynamic emergency location routing is intelligent and allows for a real-time location pull, enabling more effective emergency call routing, at the most important times.

One key enterprise customer is a \$16 billion, Fortune 500 U.S. managed care provider. This company is on the front lines of patient communication and chose Bandwidth because it was uniquely able to power both their UCaaS and CCaaS communications stack—Microsoft Teams and Genesys CX. Bandwidth's tools and automation enable the customer to manage their entire organization, including dynamic workers across multiple locations, without the need for specialized telecom expertise, including a user-friendly interface to make real-time number changes on the fly.

***Key Global Enterprise Use Case: The Integrated Cloud Contact Center***

Big brands recognize that the war for customer loyalty will be fought by providing an elite customer experience. To that end, there is no shortage of specialized enterprise applications catering to these big brands. They need to customize their CX to the specific needs of their business and their customers' demands—and everyone wants to help. To truly reap the benefits of this new "best of breed" ecosystem and build the contact center of the future, enterprises demand flexibility and cloud-native capabilities. Because of all of the complexities these large enterprises face in moving their contact center to the cloud, many have resisted the move. To connect their disparate, global infrastructure with their contact centers, most enterprises have been relying on multiple carriers, each with different contracts, uncertain redundancy, and traffic limitations. For the largest global companies, trying to migrate these systems to a modern, cloud-based solution can move slowly, or even be blocked by the need to retain critical call data to power third-party integrations such as voice authentication, fraud detection, artificial intelligence (AI), and other services essential to a better customer experience. Bandwidth's global, cloud-native carrier architecture, paired with our software platform, has helped Global Fortune 2000 brands navigate telecomplexity as they migrate, and maintain flexibility as they stay agile in responding to new and evolving CX demands.

One of Bandwidth's key multi-country BYOC customers in the contact center space is a global leader in electronic agreements. In an innovative effort to modernize its contact center while improving customer experience

and efficiency, this customer chose Bandwidth as its communications platform as they migrated their 15-location global contact center stack to the cloud. This also eliminated the complexity of existing on-premises equipment and consolidated legacy carrier agreements from several different global providers into one singular vendor.

With our two-phased digital transformation strategy, Bandwidth is a critical enabler for both enterprises and rapidly growing cloud communications platform providers, creating a virtuous circle of innovation and information. We believe the combined power of our software platform and cloud-native global network allows our customers to future-proof their strategy for all the integrations of today, and new services to come.

## **The Bandwidth Platform**

The Bandwidth Platform is designed for digital transformation. Customers today expect clear, real-time communication. But as enterprises rely on an increasing number of communications tools, they become increasingly dependent on the ability to integrate these tools. Bandwidth's universal communications platform (CPaaS) simplifies how enterprises deliver integrated global experiences. The Bandwidth Platform can be viewed in three layers: CX, core products and global network and infrastructure. Our core product domains (such as Phone Numbers, Voice, Emergency, Video, Analytics & Insights, as well as Integrations with major UCaaS & CCaaS platforms) are all enabled and made accessible by a Customer Experience layer. This CX layer includes our Developer Experience, Portal, as well as Accounts & Identity groups. Underpinning both our CX layer as well as our core product domains are our global network and infrastructure layers.

The Bandwidth Platform empowers both product leaders and enterprises to build and integrate communications services at scale, around the world. The platform is open where it matters most, with optionality and control, so our customers can benefit from added flexibility where their businesses demand it. The platform's connectivity makes it easier to unbundle telecom and integrate directly into applications like collaboration tools (ex: Duet™ for Teams) or contact center platforms (ex: Duet™ for Genesys). Its automation simplifies orchestration, and its API library offers global use cases companies can start with and scale.

By operating much of our own capital-efficient, cloud-native, global network, we are able to offer advanced monitoring, reporting and analytics, superior customer service, dedicated operating teams, personalized support and flexible cost structures.

### ***Bandwidth's Modern Carrier Network***

Bandwidth's all-IP voice network, messaging network and public safety-grade network serve as the foundation for the entire Bandwidth platform. It is a custom-built network, with coverage around the world. Direct control over our network assets allows Bandwidth to expose greater automation possibilities to our customers, while delivering best-in-class quality and support. Deep and actionable insights to quality allow our teams to act faster on behalf of our customers. Our platform's command over our own numbering resources enables real-time porting, provisioning and number ordering en masse:

- coverage in more than 60 countries, serving 90 percent of global GDP;
- owned and operated network paired with peering relationships with major global networks ensure our customers are never more than one hop away from the PSTN;
- 5x resilient U.S. toll-free network, with interconnections to four toll-free networks in addition to our own, designed for best-in-class resiliency from a single provider;
- public safety connectivity purpose-built for today's dynamic, increasingly remote workforce, interconnected with emergency calling networks worldwide;
- A2P messaging aggregator network is deeply connected into the messaging ecosystem, designed to support best-in-class deliverability and insight; and

- extensive regulatory experience, allowing us to advocate on behalf of our customers around the world.

### **Core Product Domains**

Bandwidth is continually investing in new domains of our platform. This overview gives a briefing on a few of the major product offerings and use cases supported.

**Voice.** We offer customers the ability to interact with our voice services through SIP or programmable voice API. Our voice services are used to build voice calling in applications and platforms, orchestrate call flows between users or machines, record and bridge calls, initiate text-to-speech for interactive voice response and more. Enterprises can customize high-quality call routing for business voice use cases and global reach. Some of the common use cases are:

- **Powering calling plans within cloud communications platforms (UCaaS, CCaaS, Meetings Solutions):** Our platform empowers cloud communications leaders to connect their enterprise end-users with local and toll-free connectivity at global scale.
- **Embedding ‘click-to-call’ feature:** We enhance our enterprise customers’ ability to connect with consumers instantly. Our programmable voice API enables many use cases including call notifications and surveys, advertising campaigns, etc.
- **Transitioning from traditional premise focused communications to cloud based services:** As enterprises kick their on-premise PBX to the curb, Bandwidth can fuel their digital transformation with our software-driven SIP trunking services designed to integrate in hybrid or full cloud deployments.

**Messaging API.** Our software APIs for messaging deliver a full suite of A2P messaging capabilities, designed to help brands engage with their customers. Bandwidth’s North American messaging services are enabled for local and toll-free phone numbers as well as short codes. While we provide a wide range of functionalities, some of the common use cases are:

- **Automated real-time notification and alerts:** Our APIs empower product leaders and enterprise developers with predefined functionalities to send and receive A2P messages, uniquely integrated with their own business processes or tech stacks.
- **Two-factor authentication:** We enable enterprises to verify the identity and maintain security of end users through our software-based, multi-channel verification service that sends unique codes to end users to log in to mobile and web applications.
- **Group messaging:** Product owners utilize our platform to build messaging applications that enable their end-users to share SMS and MMS messages, videos, carry out polls and surveys amongst other uses without leaving the application.

**Emergency Services.** We are the only software platform that provides complete communications solutions (full PSTN replacement) with integrated local emergency services in 38 countries around the globe. We can instantly connect numbers, devices or applications to emergency services with reliable and accurate emergency routing.

- **Dynamic Location Routing:** Enables real-time, geocoded routing based on X,Y coordinates of the caller and defined Public Safety Answering Point boundaries. This helps enterprises meet compliance requirements and enable increasingly remote workforces.
- **Emergency Calling API:** Connects apps to the public safety infrastructure without the need for on-premise technology or telephony expertise.
- **Emergency Notification API:** Enables a multi-channel notification sent to on-site security personnel when an emergency call takes place within a large enterprise.

**Video API.** Our API for video easily combines with our programmable voice API to create an integrated collaboration experience, and enables users to join calls by video or by voice calling. Easily deployed with mobile, browser, and server SDKs, our Video API provides such features as multi-party conferencing, support for VP8, H.264 video codecs, screen sharing, connection to the PSTN, and detailed call records.

- **PSTN, SIP and browser-based endpoints:** We allow customers to easily connect to PSTN, SIP and browser-based voice and video endpoints to create a multi-party communication experience, and enable users to make and receive calls around the globe.
- **Improve the impact of direct in-application communications:** Our API allows applications that depend on making a real connection, such as telehealth, the ability to do so without leaving the context of the application, allowing them to connect face-to-face with consumers with a quick, easy and trackable video.

**Phone Numbers.** The Bandwidth Dashboard is Bandwidth's user-friendly interface for a comprehensive number management solution. Every function within The Bandwidth Dashboard has an accompanying API, allowing our customers' product leaders and developers to integrate Bandwidth's functionality within their own user interfaces or web applications.

- **Global Number Management:** Order, provision, and activate local and toll-free phone numbers around the world, in real-time, allowing customers to search and sort by availability, geographic region, city/state, country/area code and many other options.
- **Programmatically port up to 20,000 numbers simultaneously:** Gain control over the confusing carrier landscape and automate number porting across all major carriers. This allows for a more reliable end-user experience with controlled scheduling and triggered porting activation.

**Insights.** Bandwidth Insights gives customers a detailed view of their voice and messaging performance to make data-driven decisions and ensure quality of service.

- **Understand and solve for deliverability issues:** Real-time error codes and alerting allows enterprises to understand and solve for SMS deliverability challenges in an ever-changing text messaging environment.
- **Real-time call quality analytics:** We provide our customers with real-time call analytics including data such as call duration, customer sentiment and other attributes to better understand call performance and customer experience.
- **Track trends, benchmarks and usage:** Our Insights API shows trends, delivery rates and usage patterns by product and carrier.

**CCaaS and UCaaS Platform Integrations.** Bandwidth's platform integrates with several leading UCaaS and CCaaS platforms under the Duet™ solutions portfolio, to provide a holistic solution that's seamlessly aligned with the organization, and allows enterprises to move communications to the cloud at their own pace. Once numbers are on the Bandwidth network, they can be moved from platform-to-platform without leaving the Bandwidth network, decreasing cloud migration risk and complexity.

- **Duet™ for Microsoft Teams**

As mentioned earlier, we have a Duet partnership with the leading CCaaS platform. We also have Duets in the UCaaS space, including Duet for Microsoft Teams. This includes:

- **Direct routing & dynamic e911** Consolidate SIP globally with meaningful direct access to the telephony, and solve for an increasingly dynamic workforce from a single provider.
- **Hosted session border controllers (SBCs)** Connect telephony without another piece of on-premise equipment. A hosted SBC eliminates complexity and allows for a truly cloud deployment.

- **Send-to SMS web application** Allows enterprises the ability to send text messages in and outside of the organization from within the Teams environment, built to work seamlessly with a direct routing or BYOC strategy.

## Competitive Strengths

We believe that successful companies win by optimizing customer experience – : engaging and exciting their customers, and earning their trust over time. And to win on customer experience, companies must communicate across continents, time zones and cultures, using a variety of technology tools and platforms. As the communications ecosystem grows, so does complexity. In our 20 years of business, we have prided ourselves on solving these most critical business challenges with great innovation. Our innovation-rich culture, customer-centric solutions and track record of successful execution provide us with the following competitive strengths:

**A full-stack, open platform:** We built our communications platform as an enterprise-grade cloud platform. As a result, our deployment is fast, our software APIs are flexible and we enable enterprises to launch and scale quickly. The scale and quality of our platform allows us to serve large-scale Internet companies and cloud service providers. Our platform also allows us to provide enterprises with one of the broadest, most complete communications services solutions in the industry--solutions that are ready to integrate with leading UC and contact center platforms to create customized, best-of-breed solutions. Our large library of APIs (including voice, messaging, numbers, emergency services, insights and integrations) allow customers to incorporate a broad range of capabilities into their products and services that would be otherwise unattainable.

**Global reach from a single source:** Our global voice network provides coverage in more than 60 countries covering more than 90 percent of global GDP. This means our customers can consolidate their communications vendor relationships with Bandwidth, while gaining global reach, resiliency and efficiency for their communications stack. We offer greater levels of quality and delivery assurance than providers offering aggregated services across the public Internet or through resold partnerships. We believe that the control we have over our IP voice network and communications platform gives us distinct competitive advantages that include: enabling our customers to deploy cloud-native services, consistent high quality, in-depth enterprise support, real-time network visibility and economies of scale.

**CPaaS based emergency calling capabilities:** We believe we are one of the only CPaaS software providers with full stack emergency service capabilities. In many countries, it's a legal obligation to ensure on-premise access to local emergency services. Our customers can meet compliance commitments using a single provider in multiple markets where they do business—across North America, Europe and Asia-Pacific. Moreover, our dynamic geospatial routing capability routes emergency calls based on a real-time location of the caller to produce industry-leading results.

**Experience & Expertise:** Our senior leadership team has a combined 100+ years of industry experience and a long average tenure with Bandwidth. We maintain direct relationships with the local regulators in more than 30 countries, and we currently power all the 2021 Gartner Magic Quadrant Leaders in UCaaS, CCaaS, and Meeting Solutions. We seek to bring this body of experience and knowledge to our customer engagements.

**Growing Relationships with Low Customer Churn:** We address the complex needs of the customers we serve, and as a result, these enterprises have continued to innovate and grow with our platform over many years. A number of our largest enterprise customers have been on our platform for more than ten years. Our relationship with each of the enterprises we serve often spans product suites, divisions and use cases over time. Based on surveys conducted after customer interactions in 2021, our customers have expressed a 97% satisfaction rate.

**A unique culture focused on people:** At Bandwidth, we are mission first. To accomplish that mission, we've created a unique, service-oriented culture, centered on meaningful work, lifting each other up, and investing in the bodies, minds, and spirits of our Bandmates. For our customers, this means there's always a smiling, world-class Bandmate on the other end of the line who will go the extra mile for them. We often hear from our customers that Bandwidth just cares more. For our employees, this means we make a "whole person promise" to offer

meaningful work and programs that ensure Bandmates can find the work/life balance necessary to enjoy a healthy and fulfilling life. Our culture is focused on helping each other succeed in our mission and makes work-life balance possible isn't just something to feel good about. It drives real results. Our Bandmate engagement and satisfaction scores are consistently ranked higher than our peers. We have been recognized as a top place to work by the Today Show, Fast Company, Forbes, The Wall Street Journal and The Triangle (North Carolina, USA) Business Journal, among others.

While we are exceptionally proud of the team we have assembled, we also acknowledge that there is important work for us to do to continue developing a more diverse and inclusive team. We believe diverse and inclusive teams are more innovative and make better business decisions.

At Bandwidth, we say, "Your music matters to the BAND." We celebrate differences and encourage our team members to be their authentic selves. No matter what music a team member makes, we support each team members' unique gifts and needs with our programs that deliver on our Whole Person Promise. The real masterpiece is in the music we make together with the strength and ingenuity to lift up all those we serve.

Our Your Music Matters program builds outreach programs and initiatives to fill our recruiting funnel with diverse candidates who possess the "Bandwidth Edge"—smart, common sense, hardworking, honest, competitive energy and emotional intelligence. We build external and internal campaigns to fill the recruiting funnel using our talented team members, creative local and non-local outreach partnerships, and virtual platforms to connect with talent who come from different backgrounds, skills, abilities and experiences.

We believe the benefits that we offer each of our team members are an important component of our Whole Person Promise. These benefits, which vary based on country location and applicable laws, include: robust medical benefits in which we pay 100% of the premiums for medical, dental and vision insurance; 401(k); industry leading parental leave; and access to mental health resources.

Bandwidth's compensation philosophy embraces transparency and educates all Bandmates on our benchmarking process, pay structure design and logical approach to compensation strategy. Research has shown that rigorously-designed compensation strategies like ours are one of the best ways to combat pay disparity and ensure fairness for every team member.

## **Our Customers**

We have a broad and diversified customer base. We benefit from longstanding relationships with some of the largest hyperscale tech companies, well-recognized enterprise customers, as well as small and medium-sized businesses. Many of our customers have multi-year contracts, with no single customer representing 10% of total revenue for the year ended December 31, 2021.

Our management is highly focused on creating and maintaining strategic partnerships beyond standard transactional customer relationships. We seek to empower enterprises to create, scale and operate voice, messaging, and emergency services across any mobile application or connected device, and this capability reinforces our customer relationships.

The majority of our customers sign master service agreements ("MSAs") that contain standard terms and conditions, including billing and payment, default, termination, limitations of liability, confidentiality, assignment and notification, and other key terms and conditions. Customers order specific services in separate service order forms that incorporate the applicable MSA. Each service order form details the minimum contract duration, any applicable monthly recurring charge and applicable non-recurring charges. The terms and conditions for each order are also specified in the applicable service order form.

## **Sales and Marketing**

Our sales and marketing teams work closely together to identify and establish relationships with prospects, acquire new enterprise customers, expand relationships with existing enterprises, and integrate them with the



Bandwidth platform. Our marketing team generates leads and pipeline for sales through a number of demand-generating channels, including our website, online marketing campaigns, webinars, sponsored events, white papers, public relations, social media, analyst relations and other outbound lead development efforts. These marketing initiatives enhance awareness, preference and adoption of our services, and help us cross-sell opportunities with existing customers.

We engage potential customers and existing customers through an enterprise sales approach. Our sales executives often directly engage C-level executives and other senior business, product and technical decision makers responsible for the end-user experience and financial results at their enterprises. Our sales executives work to educate these decision makers and their teams about the benefits of using the Bandwidth platform to engage their end-users and deliver exceptional experiences everywhere people live, learn, work and play. Our sales team includes a full stack of sales development, inside sales, field sales and sales engineering functions.

## **Research and Development**

Our ability to compete depends in large part on our continuous commitment to research and development (R&D). We seek to continuously enhance our existing offerings and develop new products and services. Our product and network teams are responsible for the design, development, testing and release of the Bandwidth platform. These teams closely coordinate with our executive management, which is responsible for creating a vision for the platform, and with our sales and marketing teams, which relay customer insights, enterprise demands and possible new use cases or enhancements. Our development efforts focus on the availability and resiliency of our communications platform and our network, including infrastructure, ease-of-use and flexibility, end-user experience and ability to integrate with other enterprise systems.

## **Competition**

The CPaaS market is rapidly evolving and increasingly competitive. We believe that the principal competitive factors in our market are:

- platform scalability, reliability, deliverability, security and performance;
- network control and quality;
- global reach;
- completeness of offering;
- ease of integration and programmability;
- product features;
- customer support;
- ability to deliver measurable value and savings;
- the cost of deploying and using our service offerings;
- the strength of sales and marketing efforts;
- brand awareness and reputation; and
- credibility with product executives and developers.

We believe that we compete favorably based on the factors listed above and believe that none of our competitors currently compete directly with us across the combination of all our global scale, platform and product offerings.

Our competitors fall into two primary categories:

- CPaaS companies that offer a narrower set of software APIs, more limited global reach, less robust customer support and fewer other features while relying on third-party networks and physical infrastructure; and
- Network service providers that offer limited developer functionality on top of their own networks and physical infrastructure, such as AT&T, Colt, Lumen and Verizon.

Some of our competitors have greater financial and technical resources, geographic reach, name recognition or intellectual property portfolios than we do. In addition, some competitors may offer a greater number and variety of products and services than we do, or may offer services in geographies in which we do not operate. We expect competition to intensify in the future. See “Risk Factors–Risks Related to Our Business” elsewhere in this Annual Report on Form 10-K, for additional information on the competitive environment in which we operate, and risks related thereto.

## **Intellectual Property**

We rely on a combination of patent, copyright, trademark and trade secret laws in the United States and other jurisdictions, as well as license agreements and other contractual protections, to protect our proprietary technology. We also rely on registered and unregistered trademarks to protect our brand.

As of December 31, 2021, we had twenty U.S. patents and five U.S. patent application pending. In addition, as of December 31, 2021, we had twenty-one registered trademarks in the United States and elsewhere.

We seek to protect our intellectual property rights by requiring our employees and independent contractors involved in development of intellectual property on our behalf to enter into agreements acknowledging that all works or other intellectual property generated or conceived by them on our behalf are our property, and assigning to us any rights, including intellectual property rights, that they may claim or otherwise have in those works or property, to the extent allowable under applicable law. See “*Risk Factors–Risks Related to Our Business*” elsewhere in this Annual Report on Form 10-K for additional information on our intellectual property rights and risks related thereto.

## **Employees**

As of December 31, 2021, we had approximately 1,100 employees, who are primarily located in the United States, Europe and Asia Pacific. None of our employees are represented by a labor union or covered by a collective bargaining agreement. We have not experienced any work stoppages, and we consider our relations with our employees to be good.

## **Regulatory**

### ***General***

We and the communications services that we provide through our software APIs are subject to many U.S. federal and state and foreign laws and regulations. These laws and regulations may concern telecommunications, as well as privacy, data protection, intellectual property, competition, consumer protection, taxation or other subjects. Many of the laws and regulations to which we and the communications services that we provide through our software APIs are subject are still evolving and being tested in courts and could be interpreted or applied in ways that could harm our business. We describe below certain material components of the regulatory framework in which we operate. See “*Risk Factors–Risks Related to Our Business*” elsewhere in this Annual Report on Form 10-K for additional information on the regulatory framework in which we operate and risks related thereto.

### ***Federal Telecommunications Regulation***

The Federal Communications Commission (“FCC”) has jurisdiction over interstate and international telecommunications services in the U.S. We have obtained FCC authorization to provide services on a facilities and resale basis.

Under the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the “1996 Act”), any entity, including cable television companies and electric and gas utilities, may enter any telecommunications market, subject to reasonable state regulation of safety, quality and consumer protection. The industry continues to evolve toward new services built upon IP technologies. With these technological advances, there have been challenges to the traditional regulatory structure under the 1996 Act. Among the challenges that have arisen is fraud and abuse in the form of illegal robocalling and unwanted text messaging. In an effort to address these challenges, Congress recently adopted new federal legislation called the Telephone Robocall Abuse Criminal Enforcement and Deterrence (“TRACED”) Act. Among other things, the TRACED Act directs the FCC to conduct a number of different rulemaking proceedings and increases the FCC’s enforcement authority. As a result, the FCC is conducting several proceedings to understand and address fraud and abuse in the form of illegal robocalling. Separately, the FCC and other governmental agencies work to thwart illegal robocalling through the Telephone Consumer Protection Act of 1991 (the “TCPA”), which restricts telemarketing calls and the use of automatic text messages without the recipient’s proper consent. The Federal Trade Commission and state attorneys general also have the authority to enforce compliance with the TCPA. Moreover, the TCPA also allows aggrieved private parties to directly seek civil remedies and seek statutory-defined damages for calls or text messages received without recipients’ proper consent. *VoIP Regulation.* Some of our communications services provided through our software APIs may qualify as Voice-over Internet Protocol (“VoIP”). The FCC has imposed various regulatory requirements on VoIP providers that previously applied only to traditional telecommunications providers, such as obligations to provide 911 functionality, to contribute to the federal universal service fund, to comply with regulations relating to local number portability, to abide by the FCC’s service discontinuance rules, to contribute to the Telecommunications Relay Services fund and to abide by the regulations concerning Customer Proprietary Network Information, outage reporting, access for persons with disabilities, the Communications Assistance for Law Enforcement Act and expanded obligations with respect to the transmission of emergency calls. In some instances, these regulations indirectly affect us because they directly apply to our customers. Additionally, several state public utility commissions are conducting regulatory proceedings that could affect our rights and obligations, or the rights and obligations of our customers, with respect to IP-based voice applications. Specifically, some states have taken the position that the “local” component of VoIP service is subject to traditional regulations applicable to local telecommunications services, such as the obligation to pay intrastate universal service fees and other state-related telecommunications taxes, fees and surcharges. We cannot predict whether the FCC or state public utility commissions will impose additional requirements, regulations or charges upon our provision of services related to IP communications.

*Universal Service.* Some of our services are subject to federal and state regulations that implement universal service support for access to communications services in rural and high-cost areas and to low-income consumers at reasonable rates; and access to advanced communications services by schools, libraries and rural health care providers. In some instances, these regulations indirectly affect us because they directly apply to our customers. The FCC assesses us a percentage of interstate and international revenue we receive from certain customers as our contribution to the Federal Universal Service Fund, which assessments we generally pass on to our customers. Additionally, the FCC has ruled that states may assess contributions to their state Universal Service Funds on VoIP providers’ intrastate revenue. Any change in the assessment methodology may affect our revenue and expenses, but at this time it is not possible to predict the extent we would be affected, if at all.

*Intercarrier Compensation.* Telecommunications carriers compensate one another for traffic carried on each other’s networks. Interexchange carriers pay access charges to local telephone companies for long distance calls that originate and terminate on local networks. Local telephone companies historically have charged one another for local and Internet-bound traffic terminating on each other’s networks. The methodology by which carriers have compensated one another for exchanged traffic, whether it be for local, intrastate or interstate traffic, has been under review by the FCC for over a decade and continues to be subject to on-going reform efforts.

In its November 2011 Universal Service Fund/Intercarrier Compensation Transformation Order (the “USF/ICC Transformation Order”) and subsequent related FCC orders, most terminating switched access charges and all reciprocal compensation charges were capped at then-current levels, and were reduced to zero over, as relevant to us, generally a six-year transition period that began July 1, 2012.

Pursuant to the USF/ICC Transformation Order, VoIP, while remaining unclassified as either an information or a telecommunications service, was prospectively categorized as either local or non-local traffic. On December 17, 2019, the FCC issued an order that concludes that local exchange carriers (“LECs”) may assess end office switched access charges only if the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve an end user. If neither the LEC nor its VoIP partner provides such a physical connection, the LEC may not assess end office switched access charges because it is not providing the functional equivalent of end office switched access. The FCC also decided to give its order retroactive effect. We cannot predict the impact on our business, including whether other carriers will agree with our legal interpretations and treatments, at this time.

In a Report and Order released on October 9, 2020 the FCC adopted new rules governing various aspects of the intercarrier compensation structure applicable to toll free (8YY) calls (“8YY Originating Access Reform Order”). The new 8YY originating access rules took effect on December 28, 2020. The new rules are generally intended to shift most switched access charges for 8YY calls to a bill-and-keep framework over a three-year period.

*Emergency Services.* Pursuant to Federal legislation called Ray Baum’s Act and Kari’s Law, the FCC adopted new emergency calling regulations that began to take effect in early 2020 continuing through January 2022. These new regulations address the obligations of communication service providers and software providers, like us, as well as equipment installers, managers and operators of a variety of different types of communications systems, and generally require uniformity in dialing patterns for contacting emergency operators, implementing central notification functionalities. The rules also require the transmission of more precise location information in enterprise or campus environments. The granularity of the location information depends on the type of service. There is some ambiguity in the rules as to the specific obligations of each party involved in the service delivery chain and the rules have not yet been interpreted by the FCC or a court.

### ***State Telecommunications Regulation***

The 1996 Act was intended to increase competition in the telecommunications industry, especially in the local market. With respect to local services, incumbent local exchange carriers (“ILECs”) such as AT&T are required to allow interconnection to their incumbent networks and to provide access to network facilities, as well as several other pro-competitive measures.

State regulatory agencies have jurisdiction when our facilities and services are used to provide intrastate telecommunications services. A portion of our traffic may be classified as intrastate telecommunications and therefore subject to state regulation. We are authorized to provide competitive local exchange telecommunications services in 49 states and the District of Columbia, and thus are subject to these additional regulatory regimes. Changes in applicable state regulations could affect our business.

In addition, we need to maintain interconnection agreements with ILECs where we wish to provide service, which are subject to approval by individual states and subject to state arbitration in the event of disputes. We expect that we should be able to negotiate or otherwise obtain renewals or successor agreements through adoption of others’ contracts or through arbitration proceedings, although the rates, terms and conditions applicable to interconnection and the exchange of traffic with certain ILECs could change significantly in certain cases.

### ***International***

As we have expanded internationally, we have become subject to telecommunications laws and regulations in the non-US jurisdictions where we offer our services. Prior to our November 2020 acquisition of Voxbone, we concentrated our efforts in Europe, including the United Kingdom.

*The European Electronic Communications Code.* In 2002, the European Council adopted a set of six directives to create the framework for telecommunication laws in Europe (the “2002 Directives”). The directives are binding upon the European Union (the “EU”) member states, which must adopt implementing national laws consistent with the directives. The European Council adopted the European Electronic Communications Code (the “EECC”), which contemplated a December 2020 deadline for each of the EU member states to implement national laws consistent with the EECC, but to date, 18 EU member states have not adopted implementing legislation.

*Part I of the EECC – The Framework.* Part I of the EECC describes the European regulatory framework and defines terms. Part I of the EECC also mandates the independence of the national regulatory authorities (the “NRAs”) to ensure the proper administration and exercise of power. Part I of the EECC also foresees the rules governing the provision of electronic communications networks and services.

*Part II of the EECC – Networks.* Part II of the EECC establishes a uniform framework for the regulation of access to and the interconnection of electronic communications networks, including spectrum licensing. Part II of the EECC also outlines the relationships among suppliers of network and services, including principles to govern contractual relationships and regulatory involvement by the NRAs as necessary. Part II of the EECC effectively governs the relationships among service providers at a wholesale level and defines the principle of market analysis and significant market power, and related termination rates.

*Part III of the EECC - Services.* Part III of the EECC governs universal service obligations and the provision of electronic communication networks and services to end users. Part III of the EECC seeks to ensure that end users have access to a minimum set of services, including access to emergency services. However, the minimum set of services is not required to be provided by all providers. Instead, the applicable NRAs may designate one or more companies to achieve the universal service in each country. It also establishes the principles governing the management of telephone numbers and the licensure requirements for the allocation of telephone numbers.

*Part III of the EECC - Services.* Part III of the EECC governs universal service obligations and the provision of electronic communication networks and services to end users. Part III of the EECC seeks to ensure that end users have access to a minimum set of services, including access to emergency services. However, the minimum set of services is not required to be provided by all providers. Instead, the applicable NRAs may designate one or more companies to achieve the universal service in each country. It also establishes the principles governing the management of telephone numbers and the licensure requirements for the allocation of telephone numbers.

*The E-Privacy Directive.* The E-Privacy Directive seeks to ensure privacy and confidentiality in the processing of personal data in electronic communications. The E-Privacy Directive requires providers of publicly available electronic communications services to take appropriate technical and organizational measures to safeguard the security of services. These measures must: ensure that personal data can be accessed only by authorized personnel for legally authorized purposes; protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration, and unauthorized or unlawful storage, processing, access or disclosure; and ensure the implementation of a security policy with respect to the processing of personal data. The E-Privacy Directive also requires notification of any breach or loss of personal data to the applicable NRA.

*Implementing National Legislation.* The directives of the European Council ensure substantial similarities among nations, but not absolute uniformity. Each of the EU member states must adopt national legislation to implement the directives of the European Council.

*United Kingdom.* The United Kingdom (“U.K.”) departed from the EU in January 2020. We understand that the transition period contemplated by the withdrawal agreement governing the U.K.’s departure from the EU provided that EU law applied in and in relation to the UK only through December 2020. Thereafter, the EECC will no longer directly apply in the U.K. We do not anticipate considerable changes, however, since the EECC has been transposed into U.K. law as of December 2020.

*Other Non-US Jurisdictions.* Following our acquisition of Voxbone, we became subject to telecommunications laws and regulations in other non-US jurisdictions where we offer our services. These laws and

regulations may concern telecommunications, as well as privacy, data protection, intellectual property, competition, consumer protection, taxation or other subjects.

## Corporate Information

Bandwidth Inc. was founded in July 2000 and incorporated in Delaware on March 29, 2001. Our principal executive offices are located at 900 Main Campus Drive, Raleigh, NC 27606, and our telephone number is (800) 808-5150. Our website address is [www.bandwidth.com](http://www.bandwidth.com). Information contained on, or that can be accessed through, our website does not constitute part of this Annual Report on Form 10-K.

### Available Information

The following information can be found, free of charge, on our corporate website at <https://www.bandwidth.com/>:

- our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission (the “SEC”);
- our policies related to corporate governance, including our Code of Business Conduct and Ethics applicable to our directors, officers and employees (including our principal executive officer and principal financial and accounting officer), that we have adopted to meet applicable rules and regulations; and
- the charters of the Audit and Compensation Committees of our Board of Directors.

In addition, copies of our annual report will be made available, free of charge, upon written request.

We intend to satisfy the applicable disclosure requirements regarding amendments to, or waivers from, provisions of our Code of Business Conduct and Ethics by posting such information on our website. The information contained on, or that can be accessed through, our website is not incorporated by reference into this Annual Report on Form 10-K and should not be considered part of this report.

## Item 1A. Risk Factors

*A description of the risks and uncertainties associated with our business is set forth below. You should carefully consider the risks and uncertainties described below, together with all of the other information in this Annual Report on Form 10-K, including the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes appearing elsewhere in this Annual Report on Form 10-K. The risks and uncertainties described below may not be the only ones we face. If any of the risks actually occur, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the market price of our Class A common stock could decline.*

### Risks Related to Our Business

***Our future growth and the success of our expansion plans depend on a number of factors that are beyond our control.***

We have grown our business considerably over the last several years. We cannot guarantee that we will be able to maintain our growth or that we will choose to target the same pace of growth in the future. Our success in achieving continued growth depends upon several factors including:

- our ability to hire and retain qualified and effective personnel, including, but not limited to, those with the expertise required to develop and maintain our service offerings, to sell those offerings and to operate our business effectively;

- the overall economic health of new and existing markets;
- the number and effectiveness of competitors;
- the pricing structure under which we will be able to purchase services required to serve our customers;
- our ability to introduce new service offerings and maintain or enhance existing offerings;
- the availability to us of technologies needed to remain competitive;
- federal, state and international regulatory conditions, including the maintenance of regulation that protects us from unfair business practices by traditional network service providers or others with greater market power who have relationships with us as both competitors and suppliers; and
- changes in industry standards, laws, regulations, or regulatory enforcement in the United States and internationally.

***The ongoing COVID-19 pandemic and efforts to contain it may harm our business and results of operations.***

The global spread of novel coronavirus disease (“COVID-19”) and efforts to manage its impact have created significant volatility, uncertainty and economic disruption worldwide, and may continue to do so for an extended period of time. The pandemic could result in decreased business spending by our customers and prospective customers, lower renewal rates by our customers, longer or delayed sales cycles, or reduced budgets or minimum commitments for the services that we offer, any of which could have an adverse impact on our financial condition and results of operations. The pandemic has also severely curtailed travel, which has adversely affected our ability to grow and maintain relationships with existing and prospective customers.

The COVID-19 pandemic has also disrupted, and may continue to disrupt, our day-to-day operations and the operations of our customers, partners and vendors. We have experienced, and may continue to experience, voluntary attrition at a rate that exceeds our historical average. While the global economy is reopening in various parts of the world, some countries and locations are reinstating lockdowns and other restrictions that make a recovery difficult to predict. This may result in differing levels of demand for our service offerings as the priorities, resources, financial condition and economic outlook of our customers change, which could have an adverse impact on our financial results. We may also experience slowdowns in customer payments, increased customer churn and reduced usage of our communications platform by some customers.

In addition, as businesses continue to support a workforce that is partially or fully remote, there may be increasing demand for the services we provide, which could increase strain on our telecommunications infrastructure. Supporting increased demand may require additional investments to increase network capacity, the availability of which may be limited. If we are unable to keep up with capacity needs, our customers may experience delays, interruptions or outages in service, which could harm our reputation, cause customers to reduce or cease the use of our services, adversely impact our ability to increase the revenue derived from existing customers or to grow our customer base, and subject us to financial penalties and liabilities under our agreements with our customers.

The extent to which the COVID-19 pandemic impacts our business, operations and financial results in the short- and long-term will depend on numerous evolving factors that we may not be able to accurately predict. These include: the duration and scope of the pandemic; governmental, business and individual actions that have been, and continue to be, taken in response to the pandemic; the effect on our customers, customer demand for our services, and our customers’ ability to pay for our services; disruptions to or restrictions on our employees’ ability to work and travel; and any effects of the pandemic on our customers, suppliers and vendors.

***The market in which we participate is highly competitive, and if we do not compete effectively, our business, results of operations and financial condition could be adversely affected.***

The market for cloud communications is rapidly evolving, significantly fragmented and highly competitive, with relatively low barriers to entry in some segments. The principal competitive factors in our market include completeness of our suite of service offerings, credibility with enterprises and developers, global reach, ease of integration and programmability, product features, platform scalability, reliability, deliverability, security and performance, brand awareness and reputation, the strength of sales and marketing efforts and customer support, as well as the cost of deploying and using our services. Our competitors fall into two primary categories:

- CPaaS companies that offer software APIs, less robust customer support and fewer other features, while relying on third-party networks and physical infrastructure; and
- network service providers that offer limited developer functionality on top of their own networks and physical infrastructure.

Some of our competitors and potential competitors are larger and have greater name recognition, longer operating histories, more established customer relationships, a larger global reach, larger budgets and significantly greater resources than we do. In addition, they have the operating flexibility to bundle competing products and services at little or no incremental cost, including offering them at a lower price as part of a larger sales transaction. 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. In addition, some competitors may offer services that address one or a limited number of functions at lower prices, with greater depth than our services or in different geographies. Our current and potential competitors may develop and market new services with comparable functionality to our services, and this could lead to us having to decrease prices in order to remain competitive. In addition, some of our competitors have lower list prices than us, which may be attractive to certain customers even if those services have different or lesser functionality. If we are unable to maintain our current pricing due to competitive pressures, our revenue and margins will be reduced and our business, results of operations and financial condition would be adversely affected. Customers utilize our services in many ways and use varying levels of functionality that our services offer or are capable of supporting or enabling within their applications. Customers that use many of the features of our services or use our services to support or enable core functionality for their applications may have difficulty or find it impractical to replace our services with a competitor's services, while customers that use only limited functionality may be able to more easily replace our services with competitive offerings.

With the introduction of new services and new market entrants, we expect competition to intensify in the future. In addition, some of our customers choose to use our services and our competitors' services at the same time in order to provide redundancy in their ability to deliver their own product offerings. Moreover, as we expand the scope of our services, we may face additional competition.

If one or more of our competitors were to merge or partner with another of our competitors, this change in the competitive landscape could further adversely affect our ability to compete effectively. In addition, pricing pressures and increased competition generally could result in reduced revenue, reduced margins, increased losses or the failure of our services to achieve or maintain widespread market acceptance, any of which could harm our business, results of operations and financial condition.

Our current and potential competitors have developed and may develop in the future service offerings that are available internationally, as well as domestically. To the extent that customers seek service offerings that include support and scaling internationally, they may choose to use other service providers to fill their communication service needs before we can fully develop and integrate our international offerings. Each of these factors could lead to reduced revenue, slower growth and lower brand name recognition amongst our industry competitors, any or all of which could harm our business, results of operations and financial condition.

***If we are unable to attract new customers in a cost-effective manner, then our business, results of operations and financial condition would be adversely affected.***



In order to grow our business, we must continue to attract new customers in a cost-effective manner. We use a variety of marketing channels to promote our services and our communications platform, and we periodically adjust the mix of our marketing programs. If the costs of the marketing channels we use increase dramatically, then we may choose to use alternative and less expensive channels, which may not be as effective as the channels we currently use. As we add to or change the mix of our marketing strategies, we may need to expand into more expensive channels than those we are currently in, which could adversely affect our business, results of operations and financial condition. We also cannot predict the extent to which COVID-19 may cause us to adjust how we promote our services. We will incur marketing expenses before we are able to recognize any revenue that the marketing initiatives may generate, and these expenses may not result in increased revenue or brand awareness. We have made in the past, and may make in the future, significant expenditures and investments in new marketing campaigns. We cannot assure you that any new investments in sales and marketing, including any increased focus on enterprise sales efforts, will lead to the cost-effective acquisition of additional customers or increased sales or that our sales and marketing efficiency will be consistent with prior periods. If we are unable to maintain effective marketing programs, then our ability to attract new customers could be materially and adversely affected, our advertising and marketing expenses could increase substantially and our results of operations may suffer.

***The market for some of our services is new and unproven, may decline or experience limited growth and is dependent in part on enterprises and developers continuing to adopt our platform and use our services.***

We have been developing and providing a cloud-based platform that enables developers and organizations to integrate voice and messaging communications capabilities into their software applications. This market is relatively new and unproven and is subject to a number of risks and uncertainties. We believe that our future success will depend in large part on the growth, if any, of this market. For example, the utilization of software APIs by developers and organizations to build communications functionality into their applications is still relatively new, and developers and organizations may not recognize the need for, or benefits of, our services and platform. If they do not recognize the need for and benefits of our services and platform, they may decide to adopt alternative services and/or develop the necessary services in-house to satisfy their business needs. In order to grow our business and expand our market position, we intend to focus on educating enterprise customers about the benefits of our services and platform, expanding the functionality of our services and bringing new technologies to market to increase market acceptance and use of our platform. Our ability to expand the market that our services and platform address depends upon a number of factors, including the cost, performance and perceived value associated with such services and platform. The market for our services and platform could fail to grow significantly or there could be a reduction in demand for our services and platform as a result of a lack of customer acceptance, technological changes or challenges, our inability to successfully introduce new product offerings, competing services and platforms, decreases in spending by current and prospective customers, weakening economic conditions, geopolitical developments, global pandemics, adverse regulatory developments or other causes. If our market does not experience significant growth or demand for our services and platform decreases, then our business, results of operations and financial condition could be adversely affected.

***We must increase the network traffic and resulting revenue from the services that we offer to realize our targets for anticipated revenue growth, cash flow and operating performance.***

We must increase the network traffic and resulting revenue from our inbound and outbound voice calling, messaging, emergency voice functions, telephone numbers and related services at acceptable margins to realize our targets for anticipated revenue growth, cash flow and operating performance. If:

- we do not maintain or improve our current relationships with existing key customers;
- we are not able to expand the available capacity on our network to meet our customers' demands in a timely manner;
- we do not develop and maintain relationships with new large enterprise customers; or
- our customers choose to obtain these services from either their own network or from one of our competitors,

then we may be unable to increase or maintain our revenue at acceptable margins.

***Our business depends on customers increasing their use of our services, and any loss of customers or decline in their use of our services could materially and adversely affect our business, results of operations and financial condition.***

Our ability to grow and generate incremental revenue depends, in part, on our ability to maintain and grow our relationships with existing customers and to have them increase their usage of our communications platform. If our customers do not increase their use of our services, then our revenue may decline and our results of operations may be harmed. Customers generally are charged based on the usage of our services. Most of our customers do not have long-term contractual financial commitments to us and, therefore, most of our customers may reduce or cease their use of our services at any time without penalty or termination charges. We cannot accurately predict customers' usage levels and the loss of customers or reductions in their usage levels of our services may each have a negative impact on our business, results of operations and financial condition and may cause our dollar-based net retention rate to decline in the future if our customers are not satisfied with our services. If a significant number of customers cease using, or reduce their usage of, our services, then we may be required to spend significantly more on sales and marketing than we currently plan to spend in order to maintain or increase revenue from customers. Such additional sales and marketing expenditures could adversely affect our business, results of operations and financial condition.

***If we are unable to increase the revenue that we derive from enterprises, our business, results of operations and financial condition may be adversely affected.***

Our ability to expand our sales to enterprise customers will depend, in part, on our ability to effectively organize, focus and train our sales and marketing personnel and to attract and retain sales personnel with experience selling to enterprises. We believe that there is significant competition for experienced sales professionals with the skills and technical knowledge that we require. Our ability to achieve significant revenue growth in the future will depend, in part, on our ability to recruit, train and retain a sufficient number of experienced sales professionals, particularly those with experience selling to enterprises. In addition, even if we are successful in hiring qualified sales personnel, new hires require significant training and experience before they achieve full productivity, particularly for sales efforts targeted at enterprises and new territories. Our recent hires and planned hires may not become as productive as quickly as we expect and we may be unable to hire or retain sufficient numbers of qualified individuals in the future in the markets where we do business.

With respect to enterprise customers, the decision to adopt our services may require the approval of multiple technical and business decision makers, including security, compliance, procurement, operations and IT. In addition, while enterprise customers may quickly deploy our services on a limited basis, before they will commit to deploying our services at scale, they often require extensive education about our services and significant customer support time, engage in protracted pricing negotiations and seek to secure readily available development resources. In addition, sales cycles for enterprises are inherently complex and lengthy, and some enterprise customers may not generate revenue that justifies the cost to obtain such customers. In addition, these complex and resource-intensive sales efforts could place additional strain on our limited product and engineering resources. Further, enterprises, including some of our customers, may choose to develop their own solutions that do not include our services. They also may demand reductions in pricing as their usage of our services increases, which could have an adverse impact on our gross margin. Our efforts to sell to these potential customers may not be successful. If we are unable to increase the revenue that we derive from enterprises, then our business, results of operations and financial condition may be adversely affected.

***If we do not develop enhancements to our services and introduce new services that achieve market acceptance, our business, results of operations and financial condition could be adversely affected.***

Our ability to attract new customers and increase revenue from existing customers depends in part on our ability to enhance and improve our existing services, increase adoption and usage of our services and introduce new

services. The success of any enhancements or new services depends on several factors, including timely completion, adequate quality testing, actual performance quality, market-accepted pricing levels and overall market acceptance. Enhancements and new services that we develop may not be introduced in a timely or cost-effective manner, may contain errors or defects, may have interoperability difficulties with our communications platform, network or other services or may not achieve the broad market acceptance necessary to generate significant revenue. We also must integrate with a variety of network, hardware, mobile and software platforms and technologies, which requires us to enhance and modify our products and our communications platform to adapt to changes and innovation in these technologies. Wireline and wireless telephone providers or cell-phone operating system providers such as Apple and Google have developed and may in the future develop new applications, functions or technologies intended to filter illegal robocalls or other unwanted phone calls or messages. Such applications, functions or technologies may inadvertently filter legal and desired calls or messages to or from our customers. In certain instances, we may need to update our services and technology to work with these applications, functions or technologies. Any failure to operate effectively with evolving or new technologies could reduce the demand for our services. If we cannot respond to these changes in a cost-effective manner, our services may become less competitive or obsolete, and our business, results of operations and financial condition could be adversely affected. To the extent that upgrades of existing products, services and technology are required for the introduction of new services, the success of these upgrades also may be dependent on reaching mutually acceptable terms with vendors and on vendors meeting their obligations in a timely manner.

Furthermore, our ability to increase the usage of our services depends, in part, on the development of new use cases for our services, which may be outside of our control. Our ability to generate usage of additional services by our customers may also require increasingly sophisticated and more costly sales efforts and result in a longer sales cycle. If we are unable to successfully enhance our existing services to meet evolving customer requirements, increase adoption and usage of our services or develop new services, or if our efforts to increase the usage of our services are more expensive than we expect, then our business, results of operations and financial condition would be adversely affected.

***Our rapid growth may impact our corporate culture, operational infrastructure and management, and if we fail to effectively manage our continuing growth, then our business, results of operations and financial condition could be adversely affected.***

We have experienced substantial growth in our business, which has placed and may continue to place significant demands on our corporate culture, operational infrastructure and management. We believe that our corporate culture has been a critical component of our success. We have invested substantial time and resources in building our team and nurturing our culture. As we expand our business, grow internationally and mature as a public company, we may find it difficult to maintain our corporate culture while managing this growth, particularly if governmental responses to COVID-19 require many of our employees to work remotely for a prolonged period of time. Any failure to manage our anticipated growth and organizational changes in a manner that preserves the key aspects of our culture could hurt our chance for future success, including our ability to recruit and retain personnel, and effectively focus on and pursue our corporate objectives. This, in turn, could adversely affect our business, results of operations and financial condition.

In addition, as we have rapidly grown, our organizational structure has become more complex. In order to manage these increasing complexities, we will need to continue to scale and adapt the way in which we are organized, our operational, financial and management controls, and our reporting systems and procedures. The expansion of our systems and infrastructure will require us to commit substantial financial, operational and management resources before our revenue increases and without any assurances that our revenue will increase.

This growth could strain our ability to maintain reliable service levels for our customers. If we fail to achieve the necessary level of efficiency in our organization as we grow, then our business, results of operations and financial condition could be adversely affected.

***Our pricing and billing systems are complex, and errors could adversely affect our results of operations.***

Our pricing and billing systems are complex to develop and challenging to implement. To be profitable, we must have accurate and complete information about the costs associated with voice and messaging, and properly incorporate such information into our pricing model. Our pricing model must also reflect accurate and current information about the market for our services, including the pricing of competitive alternatives for our services, as well as reliable forecasts of traffic volume. We may determine pricing for our services based on data that is outdated or otherwise flawed. Even if we have complete and accurate market information, we may not set prices that optimize both revenue and profitability. If we price our services too high, the amount of traffic that our customers may route to our network may decrease and accordingly our revenue may decline. If we price our services too low, our margins may be adversely affected, which will reduce our ability to achieve and maintain profitability.

Additionally, we rely on third parties to provide us with key software and services for our billing. If these third parties cease to provide those services to us for any reason, or fail to perform billing services accurately and completely, we may not be able to deliver accurate invoices promptly. Delays in invoicing can lead to delays in revenue recognition, and inaccuracies in our billing could result in lost revenue. If we fail to adapt quickly and effectively to changes affecting our costs, pricing and billing, our profitability and cash flow will be adversely affected.

***We must continue to develop effective business support systems to implement customer orders and to provide and bill our customers for services.***

We depend on our ability to continue to develop effective business support systems. This complicated undertaking requires significant resources and expertise and support from third-party vendors. Following the development of the business support systems, the data migration must be completed for the full benefit of the systems to be realized. Business support systems are needed for:

- quoting, accepting and inputting customer orders for services;
- provisioning, installing and delivering services;
- providing customers with direct access to the information systems included in our communications platform so that they can manage the services they purchase from us, generally through web-based customer portals; and
- billing for services.

On November 2, 2020, we acquired Voice Topco Limited, a private limited liability company incorporated under the laws of England and Wales (together with its subsidiaries, “Voxbone”), which directly or indirectly holds all of the issued and outstanding shares of Voxbone, S.A., a private limited liability company registered under the laws of Belgium. Prior to the completion of the acquisition of Voxbone, we and Voxbone operated independently. The integration process, including efforts to combine business support systems, is ongoing and continues to require significant time and resources. Because we are experiencing rapid growth in the number of customers we serve and the volume of services we deliver, through both organic growth and the Voxbone acquisition, we must continue to develop our business support systems on a schedule sufficient to meet customer demands. If we fail to develop effective business support systems, integrate our business support systems with those of businesses that we may acquire, or complete data migration between these systems, it could materially adversely affect our ability to implement our business plans, realize anticipated benefits from our acquisitions, if any, and meet our financial goals and objectives.

***If we are not able to maintain and enhance our brand and increase market awareness of our company and services, then our business, results of operations and financial condition may be adversely affected.***

We believe that maintaining and enhancing our brand identity and increasing market awareness of our company and services are critical to achieving widespread acceptance of our company and our communications platform, as well as to strengthen our relationships with our existing customers and to our ability to attract new

customers. The successful promotion of our brand will depend largely on our continued marketing efforts, our ability to continue to offer high quality services that meet the evolving needs of our existing and prospective customers and our ability to successfully differentiate our services from competing products and services. Our brand promotion activities may not be successful or yield increased revenue. In addition, independent industry analysts often provide reviews of our services and competing products and services, which may significantly influence the perception of our services in the marketplace. If these reviews are negative or not as strong as reviews of our competitors' services, then our brand may be harmed.

From time to time, our customers have complained about our services, such as complaints about our pricing and customer support. Additionally, we sometimes experience customer complaints relating to disruption to, or outage of, our services. If we do not handle customer complaints effectively, then our brand and reputation may suffer, our customers may lose confidence in us and they may reduce or cease their use of our services. In addition, many of our customers post and discuss on social media about products and services, including our services and our communications platform. Our success depends, in part, on our ability to generate positive customer feedback and minimize negative feedback on social media channels where existing and potential customers seek and share information. If actions we take or changes we make to our services or our communications platform upset these customers, then their online commentary could negatively affect our brand and reputation. Complaints or negative publicity about us, our services or our communications platform could materially and adversely affect our ability to attract and retain customers, our business, results of operations and financial condition.

The promotion of our brand also requires us to make substantial expenditures, and we anticipate that these expenditures will increase as our market becomes more competitive and as we expand into new markets. To the extent that these activities increase revenue, this revenue still may not be enough to offset the increased expenses we incur. In addition, due to restrictions on travel and in-person meetings resulting from COVID-19, we have attended planned customer and industry events as virtual-only experiences and cancelled others. We may alter, postpone or cancel other events in the future. Virtual meetings, events and interactions may not be as successful and may constrain our marketing, promotional and sales activity. If we do not successfully maintain and enhance our brand, then our business may not grow, we may see our pricing power reduced relative to competitors and we may lose customers, all of which would adversely affect our business, results of operations and financial condition.

***Any failure to deliver and maintain high-quality customer support may adversely affect our relationships with our customers and prospective customers and could adversely affect our reputation, business, results of operations and financial condition.***

Many of our customers depend on our customer support team to assist them in deploying or using our services effectively, to help them resolve post-deployment issues quickly and to provide ongoing support. If we do not devote sufficient resources or are otherwise unsuccessful in assisting our customers effectively, it could adversely affect our ability to retain existing customers and could prevent prospective customers from adopting our services. We may be unable to respond quickly enough to accommodate short-term increases in demand for customer support. We also may be unable to modify the nature, scope and delivery of our customer support to compete with changes in the support services provided by our competitors. Increased demand for customer support, without corresponding revenue, could increase costs and adversely affect our business, results of operations and financial condition. Our sales are highly dependent on our business reputation and on positive recommendations from existing customers. Any failure to deliver and maintain high-quality customer support, or a market perception that we do not maintain high-quality customer support, could adversely affect our reputation, business, results of operations and financial condition.

***We operate internationally, which exposes us to significant risks.***

We have expanded our international operations, including the deployment of data centers in Europe and the acquisition of Voxbone as further described below under “—Risks Related to the Acquisition of Voxbone.” As part of our growth strategy, we will continue to evaluate potential opportunities for further international expansion.

Operating in international markets requires significant resources and management attention, and subjects us to legal, regulatory, economic and political risks in addition to those we face in the United States. We have limited experience with international operations, and further international expansion efforts may not be successful.

In addition, we face risks in doing business internationally that could adversely affect our business, including:

- exposure to political developments in the United Kingdom (“U.K.”) as a result of the January 2020 departure of the U.K. from the European Union (“EU”), which has created an uncertain political and economic environment, instability for businesses and volatility in global financial markets and the value of foreign currencies, all of which could disrupt trade, the sale of our services and the mobility of our employees and contractors between the U.K., EU and other jurisdictions;
- difficulties in managing and staffing international operations, including difficulties related to the increased operations, travel, infrastructure, employee attrition and legal compliance costs associated with numerous international locations;
- our ability to effectively price our products in competitive international markets;
- new and different sources of competition;
- costs associated with network service providers outside of the United States;
- the need to adapt and localize our products for specific countries;
- challenges in understanding and complying with local laws, regulations and customs in foreign jurisdictions, particularly in the areas of telecommunications, data privacy and security;
- complexities related to differing technical standards, data privacy and telecommunications regulations and certification requirements outside the United States, which could prevent customers from deploying our products or limit their usage;
- export controls and economic sanctions administered by the Bureau of Industry and Security of the U.S. Department of Commerce and the Office of Foreign Assets Control of the U.S. Department of the Treasury;
- compliance with various anti-bribery and anti-corruption laws, such as the U.S. Foreign Corrupt Practices Act and U.K. Bribery Act 2010;
- international trade policies, tariffs and other non-tariff barriers, such as quotas;
- more limited protection for intellectual property rights in some countries;
- adverse consequences relating to the complexity of operating in multiple international jurisdictions with different laws, regulations and case law which are subject to interpretation by taxpayers, including the Company;
- fluctuations in currency exchange rates, which could increase the price of our products outside of the United States, increase the expenses of our international operations and expose us to foreign currency exchange rate risk;
- currency control regulations, which might restrict or prohibit our conversion of other currencies into U.S. dollars;
- restrictions on the transfer of funds;
- deterioration of political relations between the United States and other countries;

- public health epidemics, such as COVID-19, or natural disasters, which could have an adverse impact on our employees, contractors, customers, partners, travel and the global economy; and
- political or social unrest, acts of war or economic instability in a specific country or region in which we operate, which could have an adverse impact on our operations in that location.

In addition, due to potential costs from our international expansion efforts and network service provider fees outside of the United States, our gross margin for international customers may be lower than our gross margin for domestic customers. As a result, our overall gross margin may fluctuate as we further expand our operations and customer base internationally.

Our failure to manage any of these risks successfully could harm our international operations, and adversely affect our business, results of operations and financial condition.

***Our revenue is concentrated in a limited number of customers.***

A significant portion of our revenue is concentrated among a limited number of customers. If we lost one or more of our top ten customers, or, if one or more of these major customers significantly decreased orders for our services, our business would be materially and adversely affected.

***Attacks on or breaches of our networks or systems, or those of third parties upon which we rely, could degrade our ability to conduct our business, compromise the integrity of our services and our communications platform, result in service degradation or outages, significant data losses, the theft of our intellectual property, investigations by government agencies and damage to our reputation, and could expose us to liability to third parties and require us to incur significant additional costs to maintain the security of our networks and data.***

We depend upon our IT systems to conduct virtually all of our business operations, ranging from our internal operations and R&D activities to our marketing and sales efforts and communications with our customers and business partners. Cyber-attacks, including through the use of malware, computer viruses, distributed denial of services (“DDoS”) attacks, credential harvesting and other means for obtaining unauthorized access to or disrupting the operation of our networks and systems and those of our suppliers, vendors and other service providers, could cause harm to our business, including by misappropriating our proprietary information or that of our customers, employees and business partners or to cause interruptions of our services and our communications platform. Cyber-attacks may cause service degradation or outages, equipment failures, loss of information, including sensitive personal information of customers or employees or valuable technical and marketing information, as well as disruptions to our or our customers’ operations. Cyber-attacks against companies have increased in frequency, scope and potential harm in recent years. Further, the perpetrators of cyber-attacks are not restricted to particular groups or persons. These attacks may be committed by company employees or external actors operating in any geography, including jurisdictions where law enforcement measures to address such attacks are unavailable or ineffective, and may even be launched by or at the behest of nation states.

Despite our efforts to reduce the risks associated with cyber-attacks, including the implementation of a number of defensive measures and protocols designed to protect our systems and networks, such efforts may be insufficient to repel or mitigate the effects of a major cyber-attack. For example, beginning on September 25, 2021, our communications network was subjected to a DDoS attack that caused intermittent service disruptions affecting certain of our markets and customers. A DDoS attack is a malicious attempt to disrupt the normal traffic of a targeted server, service or network by overwhelming the target or its surrounding infrastructure with a flood of unwanted internet traffic from multiple sources, resulting in the slowdown or blockage of legitimate traffic. The techniques employed by the DDoS attackers continued to evolve, and we implemented a number of additional DDoS mitigation techniques as the incident unfolded. We will continue to deploy security enhancements in an effort to further secure our network, and while we believe we have remediated the immediate consequences of this incident, cybersecurity events may have cascading effects that unfold over time and result in additional costs, including costs associated with defensive measures, investigations, contractual claims, performance penalties, litigation, the loss of future business and other losses and liabilities that may be difficult to foresee. Any perception

by existing and prospective customers that our network and systems are not secure could result in a material loss of business and revenue and damage our reputation. Moreover, while we currently have no indication that our systems were breached or that data was exfiltrated in the DDoS attack, we cannot guarantee we will not uncover evidence of exfiltration or misuse of data or systems as a result of this incident. In addition, we cannot guarantee we will not experience a future cyber-attack or incident resulting in exfiltration or misuse of data or systems.

The techniques used by individuals or entities to access, disrupt or sabotage devices, systems and networks change frequently and may not be recognized until launched against a target. We may be unable to anticipate these techniques, and we may not become aware in a timely manner of a security breach, which could exacerbate the negative impact of such an event on our business or that of our customers. Additionally, we depend upon our employees and contractors to appropriately handle confidential and sensitive data, including customer data and customer proprietary network information pursuant to applicable federal law, and to deploy our IT resources in a safe and secure manner that does not expose our network systems to security breaches or the loss of data. Any data security incidents, including inadvertent disclosure or internal malfeasance by our employees, unauthorized access or usage, virus or similar breach or disruption of us or our services providers, could result in a loss of confidential information, theft of our intellectual property, damage to our reputation, loss of customers, litigation, regulatory investigations, fines, penalties and other liabilities.

Our existing general liability and cyber liability insurance policies may not cover, or may cover only a portion of, any potential claims related to cyber incidents or security breaches that we experience or may not be adequate to indemnify us for all or any portion of liabilities that may be imposed. We also cannot be certain that our existing insurance coverage will continue to be available on acceptable terms or in amounts sufficient to cover the potentially significant losses that may result from a security incident or breach or that the insurer will not deny coverage of any future claim. Accordingly, if our cybersecurity measures and those of our service providers fail to protect against unauthorized access, attacks (which may include sophisticated cyber-attacks) and the mishandling of data by our employees and contractors, then our reputation, business, results of operations and financial condition could be adversely affected.

***We are currently subject to litigation related to taxes and charges associated with our provision of 911 services, which could divert management's attention and adversely affect our results of operations.***

We, along with many other telecommunications companies and similar service providers, currently are subject to litigation regarding our billing, collection and remittance of non-income-based taxes and other similar charges regarding 911 services alleged to apply in certain states, counties, and municipalities located in California, Illinois, New York, Pennsylvania, and Rhode Island. See "Item 3. Legal Proceedings," in this Annual Report on Form 10-K. We may face similar litigation in other jurisdictions in the future. While we are vigorously defending these lawsuits, litigation is inherently uncertain. Tax assessments, penalties and interest or future requirements arising from these lawsuits, or any other lawsuits that may arise in other jurisdictions, may adversely affect our business, results of operations and financial condition.

***We face a risk of litigation resulting from customer misuse of our services and software to make or send unauthorized and/or unsolicited calls and/or messages, including those in violation of the Telephone Consumer Protection Act. Customer misuse of our services and software also could damage our reputation.***

Calls and/or text messages originated or passed to us by our customers may subject us to potential risks, including litigation, regulatory enforcement, fines, and reputational damage. For example, the Telephone Consumer Protection Act of 1991 (the "TCPA") restricts telemarketing and the use of technologies that enable automatic calling and/or messaging without proper customer consent. This may result in civil claims against us, including those arising due to our customers' use of our platform, and requests for information through third-party subpoenas or regulatory investigations. For example, we, along with other telecommunications companies, have been named as a defendant in a TCPA action relating to our alleged failure to block unsolicited phone calls to the plaintiff and putative class members. See the section titled "Item 3. Legal Proceedings." Internationally, we also may become subject to similar laws imposing limitations on marketing calls to wireline and wireless numbers. The scope and



interpretation of the laws that are or may be applicable to the making and/or delivery of calls and/or messages are continuously evolving and developing. If we do not comply with these laws or regulations or if we become liable under these laws or regulations due to the failure of our customers to comply with these laws by taking mandatory actions such as obtaining proper customer consent, we could become subject to lawsuits, fines, civil penalties, potentially significant statutory damages, consent decrees, injunctions, adverse publicity, loss of user confidence in our services, loss of users and other adverse consequences, which could materially harm our business.

Some of our customers may use our platform to transmit illegal, offensive, unsolicited and/or unauthorized calls and messages, including spam, phishing scams, and links to harmful applications. Some of our customers also may reproduce and distribute copyrighted material or the trademarks of others without permission. Such actions violate our practices and policies, including our Acceptable Use Policy, which applies to all customers. We generally complete considerable “know-your-customer” reviews before a customer, and in certain jurisdictions, an end user, can use our platform, although we cannot always conduct proactive audits of our customers thereafter to confirm compliance with our practices and policies, including our Acceptable Use Policy. We generally rely on our customers’ contractual representations to us that their use of our platform will comply with applicable law and our practices and policies. In cases where our customers are reselling our services, we are relying on a contractual pass-through by our customers of similar contractual representations from their end users. We also generally evaluate complaints that we receive regarding our customers’ use of our platform. Our substantial efforts will not prevent all illegal robocalls and other fraudulent activity. The unlawful or fraudulent use of our platform could subject us to claims for damages, copyright or trademark infringement, regulatory enforcement, fraud, or negligence or damage our reputation. Even if claims asserted against us do not result in liability, we may incur substantial costs to investigate and defend such claims. If we are liable for our customers’ activities, we could be required to pay fines or penalties, redesign our business methods, limit our provision of certain services or otherwise expend resources to remedy any damages caused by such actions and avoid future liability.

***We are also subject to litigation in the ordinary course of business, and uninsured judgments or a rise in insurance premiums may adversely affect our results of operations.***

In the ordinary course of business, we are subject to various claims and litigation. Any such claims, regardless of merit, could be time-consuming and expensive to defend and could divert management’s attention and resources. In accordance with customary practice, we maintain insurance against some, but not all, of these potential claims. We may elect not to obtain insurance if we believe that the cost of available insurance is excessive relative to the risks presented. The levels of insurance we maintain may not be adequate to fully cover any and all losses or liabilities. Further, we may not be able to maintain insurance at commercially acceptable premium levels or at all. If any significant judgment, claim (or a series of claims) or other event is not fully insured or indemnified against, it could have a material adverse impact on our business, financial condition and results of operations. There can be no assurance as to the actual amount of these liabilities or the timing thereof. We cannot be certain that the outcome of current or future litigation will not have a material adverse impact on our business and results of operations.

***The communications industry faces significant regulatory uncertainties and the resolution of these uncertainties could harm our business, results of operations and financial condition.***

If current or future regulations change, the Federal Communications Commission (the “FCC”), state regulators or regulators in other jurisdictions may not grant us required regulatory authorizations or may take action against us if we are found to have provided services without obtaining the necessary authorizations, or to have violated other requirements of their rules and orders. Delays in receiving required regulatory approvals or the enactment of new adverse regulation or regulatory requirements may slow our growth and have a material adverse effect on our business, results of operations and financial condition.

Proceedings before the FCC or regulators from foreign jurisdictions could limit our access to various network services or further increase the rates we must pay for such services. For example, proceedings before the FCC could result in an increase in the amount we pay to other carriers or a reduction in the revenue we derive from other carriers in, or retroactive liability for, access charges and reciprocal compensation. For example, on December

17, 2019, the FCC issued an order that revised its interpretation of the Voice-over Internet Protocol (“VoIP”) symmetry rule. The FCC now concludes that LECs may assess end office switched access charges only if the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve an end user. If neither the LEC nor its VoIP partner provides such a physical connection, the LEC may not assess end office switched access charges. The FCC also decided to give its order retroactive effect. We cannot predict the impact this FCC order may have on our business, including whether other carriers will agree with our legal interpretations and treatments, at this time. Other proceedings before the FCC could also result in increases in the cost of regulatory compliance. For example, the FCC has opened a proceeding to examine how to improve the delivery of emergency 911 services and whether to expand requirements to include communications services not currently subject to emergency calling obligations. A number of states also have proceedings pending that could impact our access to and the rates we pay for network services. Other state proceedings could limit our pricing and billing flexibility. Our business would be substantially impaired if the FCC, the courts or state commissions eliminated our access to the facilities and services we use to serve our customers, substantially increased the rates we pay for facilities and services, increased the costs or complexity associated with providing emergency 911 services or adversely affected the revenue we receive from other carriers or our customers. In addition, congressional legislative efforts to rewrite the Telecommunications Act of 1996 or enact other telecommunications legislation, as well as various state legislative initiatives, may cause major industry and regulatory changes. We cannot predict the outcome of these proceedings or legislative initiatives or the effects, if any, that these proceedings or legislative initiatives may have on our business and operations.

While we believe we are currently in compliance in all material respects with all material federal, state, local and international rules and regulations, these regulations are subject to interpretation and the relevant regulators may determine that our application of these rules and regulations is not consistent with their interpretation. Additionally, in certain instances, third parties or government agencies may bring action with federal, state, local or international regulators if they believe a provider has breached applicable rules and regulations.

***The effects of increased regulation of IP-based service providers are unknown.***

While the FCC has to date generally subjected IP-based service providers in the United States to less stringent regulatory oversight than traditional common carriers, the FCC has imposed certain regulatory obligations on providers of interconnected and non-interconnected VoIP services, including the obligations to contribute to the Universal Service Fund, to provide 911 services, and to comply with the Communications Assistance for Law Enforcement Act. The recently enacted TRACED Act aims to mitigate illegal robocalls by directing the FCC to conduct certain rulemaking proceedings that include adopting rules that require participation in the technical standard known as the Secure Telephone Identity Revisited (“STIR”) and Signature-based Handling of Asserted Information Using toKENs (“SHAKEN”) (together, “STIR/SHAKEN”), among other requirements. For large carriers, IP-based network equipment and the IP services that operate on such equipment were required to support the STIR/SHAKEN framework as of June 30, 2021. Bandwidth has had a small sub-set of services and customer accounts that operate on legacy IP equipment that is not STIR/SHAKEN capable. Bandwidth is working to retire such equipment. There may be regulatory activity related to the timing of Bandwidth’s efforts to retire such non-STIR/SHAKEN capable equipment. Failure to comply with existing regulations, or the imposition of additional regulations could have a material adverse effect on our business.

***Our operations are subject to significant regulation and require us to obtain and maintain numerous governmental licenses and permits in the United States and internationally. If we fail to obtain and maintain those licenses and permits, we may not be able to conduct our business. Moreover, changes in regulatory requirements could significantly increase our costs or otherwise adversely affect our operations.***

In the ordinary course of operating our network and providing our services, we must obtain and maintain a variety of telecommunications and other licenses, permits and authorizations. We also must comply with a variety of ongoing regulatory obligations. If we are unable to obtain and maintain the licenses and permits needed to operate and expand our network on acceptable terms and on a timely basis, our business could be materially adversely affected. In addition, the cancellation or non-renewal of the licenses or permits we hold could materially adversely affect our business. Our failure to comply with the obligations imposed upon license and permit holders,

including the payment of fees, may cause sanctions or additional costs, including the revocation of authority to provide services.

Our operations are subject to regulation at the national, state and local levels. Our operations are also subject to additional regulation by other countries in our international markets. Changes to existing regulations or rules, or the failure of regulatory agencies to regulate in areas historically regulated on matters such as network neutrality, licensing fees, environmental, health and safety, privacy, intercarrier compensation, emergency services, interconnection, illegal robocalling, extra-territorial use of telephone numbers, and other areas, in general or particular to our industry, may increase uncertainty, increase costs, restrict operations or decrease revenue.

Our inability or failure to comply with telecommunications and other laws and regulations could cause the temporary or permanent suspension of our operations. In addition, if we cannot provide emergency calling functionality through our communications platform to meet any applicable federal, state or international requirements, the competitive advantages that we currently have may not persist, adversely affecting our ability to obtain and to retain enterprise customers which could have an adverse impact on our business.

We are subject to telecommunications laws and regulations in the non-U.S. countries where we offer our services. Numerous country-specific laws and governmental regulations apply to our business and may increase our costs, impact our products and communications platform or prevent us from offering or providing our products in certain countries. Many existing non-U.S. laws and regulations may not fully contemplate CPaaS solutions and the interpretation and enforcement of non-U.S. laws and regulations may involve significant uncertainties. For example, several European countries have adopted “know your customer” requirements regarding end users and have mandated the real-time provisioning of data to national law enforcement authorities’ systems.

***In January 2018, the FCC repealed its Network Neutrality Rules. Our business could suffer with respect to the quality of the services we offer, our ability to maintain our internet-based services and our services offered through our communications platform, a reduction in our profitability or an increase in the price of our services making our offerings less competitive in the marketplace.***

In January 2018, the FCC adopted an order largely repealing its network neutrality rules (the “Order”). Among other things, the pre-existing network neutrality rules prevented providers of broadband internet access services—like cable and telephone companies—from blocking, impairing and degrading service offerings from non-affiliated third parties like us. In 2019, the U.S. Court of Appeals for the District of Columbia Circuit largely affirmed the Order, but vacated the portion of the Order that would bar states from imposing any rule or requirement inconsistent with the FCC’s order. Various companies appealed the federal court of appeals decision in December 2019. We cannot predict whether the FCC will reverse the Order, whether the appeal will be successful or whether any states will adopt legislation that results in restoring the pre-existing network neutrality rules. If broadband providers were to block, impair or degrade our internet-based services or services we offer through our communications platform, or were to charge us or our customers to access and use our internet-based services or services offered through our communications platform, we could lose customers and our business could be materially adversely affected. Most major broadband internet access providers have publicly stated they will not block, impair or degrade third party offerings. We cannot predict the potential impact of the Order or future legal and regulatory developments that may occur.

***Our business is subject to complex and evolving laws and regulations, commercial standards, contractual obligations and other requirements related to information collection.***

We are subject to various federal, state, local and foreign laws and regulations, contractual commitments and industry standards that create obligations and impose restrictions with respect to the collection, storage, retention, use, processing, transmission, sharing, disclosure and protection of personal data and other customer data, including “customer proprietary network information” under applicable U.S. laws. We must comply with these obligations and restrictions and may be subject to significant consequences, including penalties and fines, if we fail

to comply. These obligations and restrictions continue to develop and evolve rapidly, and it is possible that we may not be, or may not have been, compliant with each such obligation and restriction.

The complexity and evolving nature of these obligations and restrictions subject us to the risk of differing interpretations, inconsistency or conflicts among countries or rules, and creates uncertainty regarding their application to our business. Uncertainty and changes in the requirements of multiple jurisdictions may increase the cost of compliance, delay or reduce demand for our services, restrict our ability to offer services in certain locations, impact our customers' ability to utilize our services in certain jurisdictions, or subject us to sanctions by national data protection regulators, all of which could harm our business, financial condition and results of operations.

These obligations and restrictions may limit our ability to collect, store, process, use, transmit and share data with our customers, employees, consultants and third-party providers, which may result in our inability in certain cases to provide services to our customers or to offer a global customer experience. These obligations may also limit the ability of our customers to collect, store, retain, protect, use, process, transmit, share and disclose data with others through our services. Compliance with, and other burdens imposed by, such obligations and restrictions could increase the cost of our operations and adversely impact our business.

Any failure to comply with these obligations and restrictions or our own posted privacy policies and notices, or any security incident that results in a personal data breach or the unauthorized access to, or the acquisition, release or transfer of, other customer data, could subject us to investigations, proceedings or actions against us by governmental entities or others, lawsuits, fines, criminal penalties, statutory damages, consent decrees, injunctions, adverse publicity, contractual liability, civil liabilities, loss of customer confidence, damage to our brand and reputation or a loss of customers, any of which could materially harm our business.

If we were to suffer or if one of our customers or vendors were to suffer a personal data breach or other security incident, we may be subject to the jurisdiction of a variety of governmental agencies. We may have to comply with a variety of data breach requirements at the national and state levels in the United States and in other countries, comply with any resulting investigations, as well as offer mitigation to customers and potential end users of certain customers to which we provide services. We could also be subject to fines, forfeitures and other penalties that may adversely impact our business.

From time to time, various federal, state and foreign legislative or regulatory bodies may enact new or additional laws and regulations concerning data-protection issues. For example, certain laws or regulations may mandate disclosure of customer information to domestic or international law enforcement bodies, which could adversely impact our business, our brand or our reputation with customers and may not always provide a level of protection for such information that is required by other laws or regulations. In other cases, some countries may limit the transfer of personal data or require that that personal data regarding customers in their country be maintained solely in their country. Having to maintain local data centers and redesign product, service and business operations to limit the processing of personal data to within individual countries could increase our operating costs significantly.

Additionally, some of our third-party vendors may have access to customer, end user or employee data. If these third-party vendors violate obligations and restrictions related to applicable data protection laws or our policies or contractual commitments, such violations may also put us, or data relating to our customers, end users or employees, at risk and could in turn have a material and adverse effect on our business.

***Our business could suffer if we cannot obtain or retain local or toll-free numbers, are prohibited from obtaining local or toll-free numbers, or are limited to distributing local or toll-free numbers to only certain customers.***

Our future success depends on our ability to procure large quantities of local and toll-free numbers to meet customer demands at reasonable cost and without undue restrictions. Our ability to procure and distribute numbers depends on factors outside of our control, such as applicable regulations, the practices of the communications carriers that provide numbers to us in certain jurisdictions, the cost of obtaining and managing numbers and the

level of demand for new numbers. Due to their limited availability, there are certain popular area code prefixes and specialized numbers that we may not be able to obtain in desired quantities or at all. Our inability to acquire or retain numbers for our operations would make our services, including our communications platform, less attractive to potential customers that desire assignments of particular numbering resources. In addition, future growth of our customer base, together with growth of customer bases of other providers of communications services, has increased, which increases our dependence on needing large quantities of local and toll-free numbers associated with desirable area codes or specific toll-free numbering resources at a reasonable cost and without undue restriction. If we are not able to obtain or retain adequate local and toll-free numbers, or attractive subsets of such resources, our business, results of operations and financial condition could be materially adversely affected.

In addition, in order to procure, distribute and retain telephone numbers in certain foreign jurisdictions, we will be required to register with the local telecommunications regulatory authorities, some of which have been increasingly monitoring and regulating the categories of phone numbers that are eligible for provisioning to our customers, including geographical, regional, local and toll-free phone numbers. We have registered or obtained licenses, or are in the process of registering or obtaining licenses, in various countries in which we do business, but in some countries, the regulatory regime around provisioning of phone numbers is unclear, subject to change over time, and sometimes may conflict from jurisdiction to jurisdiction. Furthermore, these regulations and governments' approach to their enforcement, as well as our products and services, are still evolving and we may be unable to maintain compliance with applicable regulations, or enforce compliance by our customers, on a timely basis or without significant cost. Also, compliance with these types of regulations may require changes in products or business practices that result in reduced revenue. If we or our customers use or assign phone numbers in these countries in a manner that violates applicable rules and regulations, we may also be subject to significant penalties or governmental action, including government-initiated audits and, in extreme cases, may be precluded from doing business in that particular country. In the event of such non-compliance, we may be forced to reclaim phone numbers from our customers, which could result in loss of customers, breach of contract claims, loss of revenue and reputational harm, all of which could have a material adverse effect on our business, results of operations and financial condition.

***We may be exposed to liabilities under anti-corruption, export control and economic sanction regulations, and similar laws and regulations, and any determination that we violated any of these laws or regulations could have a material adverse effect on our business.***

We are subject to the Foreign Corrupt Practices Act ("FCPA"), the U.K. Bribery Act and other laws that prohibit improper payments or offers of payments to foreign governments and their officials, political parties, and/or private parties by persons and entities for the purpose of obtaining or retaining business. Our international activities create the risk of unauthorized payments or offers of payments by one of our employees or consultants, even though these parties are not always subject to our control. Our policies prohibit these practices by our employees and consultants, although our existing safeguards and any future improvements may prove to be less than effective, and our employees or consultants may engage in conduct for which we might be held responsible. Violations of the FCPA, the U.K. Bribery Act or other laws may result in severe criminal or civil sanctions, and we may be subject to other liabilities, which could negatively affect our business, operating results, and financial condition.

Our products and services may be subject to export control and economic sanctions regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations and various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control. Our products and services must be offered and sold in compliance with these laws and regulations. If we do not comply with these laws or regulations or if we become liable under these laws or regulations due to the failure of our customers to comply with these laws by obtaining proper consent, we could face liability. In addition, changes in our products or services, changes in applicable regulations, or change in the target of such regulations, could also result in decreased use of our products and services, or in our decreased ability to sell our products or provide our services to existing or prospective customers with international operations. Any decreased use of our products and services or limitation

on our ability to export our products and provide our services could adversely affect our business, results of operations and financial condition.

***Intellectual property and proprietary rights of others could prevent us from using necessary technology to provide our services or subject us to expensive intellectual property litigation.***

If technology that we require to provide our services, including our communications platform, was determined by a court to infringe a patent held by another entity that will not grant us a license on terms acceptable to us, we could be precluded by a court order from using that technology and we would likely be required to pay significant monetary damages to the patent holder. The successful enforcement of these patents, or our inability to negotiate a license for these patents on acceptable terms, could force us to cease (i) using the relevant technology and (ii) offering services incorporating the technology. If a claim of infringement was brought against us based on the use of our technology or against our customers based on their use of our services for which we are obligated to indemnify, we could be subject to litigation to determine whether such use or sale is, in fact, infringing. This litigation could be expensive and distracting, regardless of the outcome.

While our own limited patent portfolio may deter other operating companies from bringing such actions, patent infringement claims may also be asserted by patent holding companies, which do not use technology and whose sole business is to enforce patents against operators, such as us, for monetary gain. Because such patent holding companies, commonly referred to as patent “trolls,” do not provide services or use technology, the assertion of our own patents by way of counter-claim would be largely ineffective.

***Our use of open source software could negatively affect our ability to sell our services and subject us to possible litigation.***

Our services, including our communications platform, incorporate open source software, and we expect to continue to incorporate open source software in our services in the future. Few of the licenses applicable to open source software have been interpreted by courts, and there is a risk that these licenses could be construed in a manner that could impose unanticipated conditions or restrictions on our ability to commercialize our services, including our communications platform. Moreover, although we have implemented policies to regulate the use and incorporation of open source software into our services, we cannot be certain that we have not incorporated open source software in our services in a manner that is inconsistent with such policies. If we fail to comply with open source licenses, we may be subject to certain requirements, including requirements that we offer our services that incorporate the open source software for no cost, that we make available source code for modifications or derivative works we create based upon, incorporating or using the open source software and that we license such modifications or derivative works under the terms of applicable open source licenses. 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 expenses defending against such allegations and could be subject to significant damages, enjoined from generating revenue from customers using services that contained the open source software and required to comply with onerous conditions or restrictions on these services. In any of these events, we and our customers could be required to seek licenses from third parties in order to continue offering our services and to re-engineer our services or discontinue offering our services to customers in the event re-engineering cannot be accomplished on a timely basis. Any of the foregoing could require us to devote additional R&D resources to re-engineer our services, could result in customer dissatisfaction and may adversely affect our business, results of operations and financial condition.

***Indemnity provisions in various agreements potentially expose us to substantial liability for intellectual property infringement and other losses.***

Our agreements with customers and other third parties typically include indemnification or other provisions under which we agree to indemnify or are otherwise liable to them for losses suffered or incurred as a result of claims of intellectual property infringement, damages caused by us to property or persons or other liabilities relating to or arising from our services or platform or other acts or omissions. The term of these contractual provisions often

survives termination or expiration of the applicable agreement. Large indemnity payments or damage claims from contractual breach could harm our business, results of operations and financial condition. Although we normally contractually limit our liability with respect to such obligations, we may still incur substantial liability related to them. Any dispute with a customer with respect to such obligations could have adverse effects on our relationship with that customer and other current and prospective customers, reduce demand for our services and adversely affect our business, results of operations and financial condition.

***If we fail to protect our internally developed systems, technology and software and our patents and trademarks, we may become involved in costly litigation or our business or brand may be harmed.***

Our ability to compete effectively is dependent in large part upon the maintenance and protection of systems and software that we have developed internally, including some systems and software based on open standards. We cannot patent much of the technology that is important to our business. In addition, any pending patent applications may not be granted, and any issued patent that we own may be challenged, narrowed, invalidated or circumvented. To date, we have relied on patent, copyright and trade secret laws, as well as confidentiality procedures and licensing arrangements, to establish and protect our rights to our technology. While we typically enter into confidentiality agreements with our employees, consultants, customers, and vendors in an effort to control access to and distribution of technology, software, documentation and other information, these agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use our technology without authorization. In addition, others may independently discover trade secrets and proprietary information, and in such cases we could not assert any rights against such party. Policing unauthorized use of our technology is difficult. The steps we take may not prevent misappropriation of the technology we rely on. In addition, effective protection may be unavailable or limited in some jurisdictions outside the United States. Litigation may be necessary in the future to enforce or protect our rights or to determine the validity and scope of the rights of others. That litigation could cause us to incur substantial costs and divert resources away from our daily business, which in turn could adversely affect our business, results of operations and financial condition.

The unlicensed use of our brands by third parties could harm our reputation, cause confusion among our customers or impair our ability to market our services. Accordingly, we have registered trademarks and service marks and have applied for registration of our trademarks and service marks in the United States and certain jurisdictions outside the United States to establish and protect our brand names as part of our intellectual property strategy. The laws of some countries do not protect intellectual property and other proprietary rights to the same extent as the laws of the United States. Our exposure to unauthorized copying, transfer and use of our proprietary technology or information may increase as we expand our international operations. We cannot assure you that our pending or future trademark applications will be approved. Although we anticipate that we would be given an opportunity to respond to any such rejections, we may be unable to overcome any such rejections. In addition, in proceedings before the U.S. Patent and Trademark Office third parties are given an opportunity to oppose pending trademark applications and seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. In the event that our trademarks are successfully challenged, we could be forced to rebrand our services, which could result in loss of brand name recognition. Moreover, successful opposition to our applications might encourage third parties to make additional oppositions or commence trademark infringement proceedings against us, which could be costly and time consuming to defend against. If we decide to take limited or no action to protect our trademarks, our trademark rights may be diluted and subject to challenge or invalidation, which could materially and adversely affect our brand in the marketplace. Certain of the trademarks we may use may become so well known by the public that their use becomes generic and they lose trademark protection. Over the long term, if we are unable to establish name recognition based on our trademark and tradenames, then we may not be able to compete effectively and our business may be adversely affected. Further, we cannot assure you that competitors will not infringe our trademarks or that we will have adequate resources to enforce our trademarks.

***We may be liable for the information that content owners or distributors distribute over our network.***

The law relating to the liability of private network operators for information carried on or disseminated through their networks remains unsettled. While we disclaim any liability for third-party content in our services agreements, we may become subject to legal claims relating to the content disseminated on our network, even though such content is owned or distributed by our customers or a customer of our customers. For example, lawsuits may be brought against us claiming that material distributed using our network was inaccurate, offensive or violated the law or the rights of others. Claims could also involve matters such as defamation, invasion of privacy and copyright infringement. In addition, the law remains unclear over whether content may be distributed from one jurisdiction, where the content is legal, into another jurisdiction, where it is not. Companies operating private networks have been sued in the past, sometimes successfully, based on the nature of material distributed, even if the content is not owned by the network operator and the network operator has no knowledge of the content or its legality. It is not practical for us to monitor all of the content distributed using our network. We may need to take costly measures to reduce our exposure to these risks or to defend ourselves against such claims, which could adversely affect our results of operations and financial condition.

***Third parties may fraudulently use our name to obtain access to customer accounts and other personal information, use our services to commit fraud or steal our services, which could damage our reputation, limit our growth or cause us to incur additional expenses.***

Our customers may have been subject to “phishing,” which occurs when a third party calls or sends an email or pop-up message to a customer that claims to be from a business or organization that provides services to the customer. The purpose of the inquiry is typically to encourage the customer to visit a bogus website designed to look like a website operated by the legitimate business or organization or provide information to the operator. At the bogus website, the operator attempts to trick the customer into divulging customer account or other personal information such as credit card information or to introduce viruses through “Trojan horse” programs to the customers’ computers. This could result in identity theft from our customers and the unauthorized use of our services. Third parties also have used our communications services to commit fraud. If we are unable to detect and prevent “phishing” and other similar methods, use of our services for fraud and similar activities, our brand reputation and growth may suffer and we may incur additional costs, including costs to increase security, or be required to credit significant amounts to customers.

Third parties also have used our communications services without paying, including by submitting fraudulent credit information and fraudulent credit card information. This has resulted in our incurring the cost of providing the services, including incurring call termination fees, without any corresponding revenue. We have implemented anti-fraud procedures in order to limit the expenses resulting from theft of service. If our procedures are not effective, theft of service could significantly increase our expenses and adversely affect our business, results of operations and financial condition.

***If our customers or their end users do not accept the differences between our service and traditional telephone service, they may choose to remain with their current telephone service provider or may choose to return to service provided by traditional network service providers.***

Aspects of our services based on VoIP, including our communications platform, are not the same as traditional network service providers. Our continued growth is dependent on the adoption of our services by mainstream customers and their end users, so these differences are important. For example:

- Our 911 calling and other emergency calling services are different, in significant respects, from the 911 and other emergency calling services associated with traditional wireline and wireless telephone providers and, in certain cases, with other VoIP providers.
- In the event of a power loss or Internet access interruption experienced by a customer, our service may be interrupted.



- Our customers' end users may experience lower call quality than they are used to from traditional wireline or wireless telephone companies, including static, echoes and delays in transmissions.
- Our customers' end users may not be able to call premium-rate telephone numbers such as 1-900 numbers and 976 numbers.

***We may lose customers if we experience failures of our system or communications platform that significantly disrupt the availability and quality of the services that we provide. Such failures may also cause interruptions to service delivery and the completion of other corporate functions.***

Our operations depend on our ability to limit and mitigate interruptions or degradation in service for customers. Interruptions in service or performance problems, for whatever reason, could undermine our customers' confidence in our services and cause us to lose customers or make it more difficult to attract new ones. Because many of our services are critical to the businesses or daily lives of many of our customers or our customers' end users, any significant interruption or degradation in service also could result in lost profits or other losses to customers. Although our service agreements generally limit our liability for service failures and generally exclude any liability for "consequential" damages such as lost profits, a court might not enforce these limitations on liability, which could expose us to financial loss. We also sometimes provide our customers with committed service levels. If we fail to meet these committed service levels, we could be required to provide service credits or other compensation to our customers, which could adversely affect our results of operations.

The failure of any equipment or facility on our network, including our network operations control centers and network data storage locations, could interrupt customer service and other corporate functions until we complete necessary repairs or install replacement equipment. Our business continuity plans also may be inadequate to address a particular failure that we experience. Delays, errors or network equipment or facility failures could result from natural disasters, pandemics such as COVID-19, disease, accidents, terrorist acts, acts of war, power losses, security breaches, vandalism or other illegal acts, computer viruses or other causes. These delays, errors or failures could significantly impair our business due to:

- service interruptions;
- malfunction of our communications platform on which our enterprise users rely for voice, messaging or emergency service functionality;
- exposure to customer liability;
- the inability to install new service;
- the unavailability of employees necessary to provide services;
- the delay in the completion of other corporate functions such as issuing bills and the preparation of financial statements; or
- the need for expensive modifications to our systems and infrastructure.

***Defects or errors in our services could diminish demand for our services, harm our business and results of operations and subject us to liability.***

Our customers use our services for important aspects of their businesses, and any errors, defects or disruptions to our services and any other performance problems with our services could damage our customers' businesses and, in turn, hurt our brand and reputation. We provide regular updates to our services, which have in the past contained, and may in the future contain, undetected errors, failures, vulnerabilities and bugs when first introduced or released. Real or perceived errors, failures or bugs in our services could result in negative publicity, loss of or delay in market acceptance of our platform, loss of competitive position, lower customer retention or claims by customers for losses sustained by them. In such an event, we may be required, or may choose, for

customer relations or other reasons, to expend additional resources in order to help correct the problem. In addition, we may not carry insurance sufficient to compensate us for any losses that may result from claims arising from defects or disruptions in our services. As a result, our brand and reputation could be harmed, and our business, results of operations and financial condition may be adversely affected.

***If our emergency services do not function properly, we may be exposed to significant liability from our users.***

Certain of our IP telephony offerings, as well as the 911 and other emergency services solutions that we offer are subject to FCC and other rules governing the delivery of emergency calling services. The rules and laws that govern emergency calling services are subject to change as communications technologies and consumer use of emergency services change. Similar to other providers of IP telephony services, our 911 and other emergency services are different from those associated with traditional local telecommunications services. These differences may lead to an inability to make and complete calls that would not occur for users of traditional telephony services. For example, to provide the emergency calling services required by the FCC's rules to our IP telephony consumers, we may use components of both the wireline and wireless infrastructure in unique ways that can result in failed connections and calls routed to incorrect emergency call centers. Routing emergency calls over the Internet may be adversely affected by power outages and network congestion that may not occur for users of traditional telephony services. Emergency call centers may not be equipped with appropriate hardware or software to accurately process and respond to emergency calls initiated by consumers of our IP telephony services, and calls routed to the incorrect emergency call center can significantly delay response times for first responders. Users of our interconnected VoIP telephony services from a fixed address in the United States are required to manually update their location information for use when calling 911, and failure to do so may result in dispatching of assistance to the wrong location. Even manual updates made appropriately require a certain amount of time before the updated address appears in the relevant databases which could result in misrouting emergency calls to the wrong emergency calling center, dispatching first responders to the wrong address, or both. Similar requirements and delays applicable to relevant databases also apply to local emergency services provided outside the United States. Moreover, the relevant rules with respect to what address information should be provided to emergency call centers when the call originates from a mobile application are unsettled and evolving. As a result, we could be subject to enforcement action by the FCC or other entities — possibly exposing us to significant monetary penalties, cease and desist orders, civil liability, loss of user confidence in our services, loss of users, and other adverse consequences, which could materially harm our business. The FCC's rules, and some states, also impose other obligations on us, such as properly recording our customers' registered locations, obtaining affirmative acknowledgement from customers that they are aware of the differences between emergency calling services associated with IP telephony as compared with traditional telecommunications services, and distribution of appropriate warning labels to place on or near hardware used to place IP telephony calls. Similar obligations apply to local emergency services provided outside the United States. Failure to comply with these requirements, or failure of our communications platform such that 911 and other emergency calls did not complete or were misrouted, may result in FCC, foreign regulatory or other enforcement action, state attorneys' general investigations, potential exposure to significant monetary penalties, cease and desist orders, civil liability to our users and their customers, loss of user confidence in our services, loss of users, and other adverse consequences, which could materially harm our business.

National regulations, including the FCC's rules, also require that we timely report certain 911 and other emergency service outages. The FCC or other applicable regulatory authorities may make inquiries regarding matters related to any reported 911 or other emergency service outage. Any inquiry could result in regulatory enforcement action, potential monetary penalties and other adverse consequences.

***Termination of relationships with key suppliers could cause delay and additional costs.***

Our business is dependent on third-party suppliers for fiber, computers, software, transmission electronics and related network components, as well as providers of network colocation facilities that are integrated into our network, some of which are critical to the operation of our business. If any of these critical relationships is terminated, a supplier either exits or curtails its business as a result of economic conditions, a supplier fails to provide critical services or equipment, or the supplier is forced to stop providing services due to legal constraints,

such as patent infringement, and we are unable to reach suitable alternative arrangements quickly, we may experience significant additional costs or we may not be able to provide certain services to customers. If that happens, our business, results of operations and financial condition could be materially adversely affected.

Many of our third-party suppliers do not have long-term committed contracts with us and may interrupt services or terminate their agreements with us without notice or by providing 30 days prior written notice. Although we expect that we could receive similar services from other third-party suppliers, if any of our arrangements with our third-party suppliers are terminated or interrupted, we could experience interruptions in our ability to make our services available to customers, as well as delays and additional expenses in arranging alternative providers. If a significant portion of our third-party suppliers fail to provide these services to us on a cost-effective basis or otherwise terminate or interrupt these services, the delay caused by qualifying and switching to other providers could be time consuming and costly and could adversely affect our business, results of operations and financial condition.

One of our third-party suppliers, Level 3, provides us with certain 911 call routing and termination services. Level 3 is our preferred provider for these services pursuant to an agreement that automatically renews for consecutive one-year periods, unless terminated by either Level 3 or us. Level 3 may cancel the agreement upon two years' notice and we may cancel the agreement upon one year's notice. If our agreement with Level 3 terminates for any reason other than our default, Level 3 must continue to provide these services to us for at least two years to allow us to transition to another provider. We are obligated to pay Level 3 a minimum of \$100,000 per month for as long as the agreement continues. Additionally, Level 3 has a right of first refusal to provide these 911 call routing and termination services to us in additional geographic areas.

***Our growth and financial health are subject to a number of economic risks.***

The financial markets in the United States have experienced substantial uncertainty during recent years, particularly following the COVID-19 outbreak. This uncertainty has included, among other things, extreme volatility in securities prices, reduced liquidity and credit availability, rating downgrades of certain investments and declining values with respect to others. If capital and credit markets continue to experience uncertainty and available funds remain limited, we may not be able to obtain debt or equity financing or to refinance our existing indebtedness on favorable terms or at all, which could affect our strategic operations and our financial performance and force modifications to our operations. These conditions currently have not precluded us from accessing credit markets or financing our operations, but there can be no assurance that financial markets and confidence in major economies will not deteriorate. An extended period of economic deterioration could materially adversely affect our results of operations and financial condition and exacerbate some of the other risk factors contained in Annual Report on Form 10-K. For example, our customers might defer or entirely decline purchases of our services due to tighter credit or negative financial news or reduce demand for our services. Our customers also may not be able to obtain adequate credit, which could adversely affect the timeliness of their payments to us or ultimately result in a filing by the customer for protection from creditors under applicable insolvency or bankruptcy laws. If our customers cannot make timely payments to us, our accounts receivable could increase. The demand for, and the prices of, our services also may decline due to the actions of our competitors or otherwise.

Key vendors upon which we rely also could be unwilling or unable to provide us with the materials or services that we need to operate our communications platform or otherwise on a timely basis or on terms that we find acceptable. Our financial counterparties, insurance providers or others also may default on their contractual obligations to us. If any of our key vendors fail, we may not be able to replace them without disruptions to, or deterioration of, our services and we also may incur higher costs associated with new vendors. Transitioning to new vendors also may result in the loss of the value of assets associated with our integration of third-party services into our network or service offerings.

***Our customer churn rate may increase.***

Customer churn occurs when a customer reduces usage or discontinues service with us, whether voluntarily or involuntarily, such as a customer switching some or all of its usage to a competitor or going out of business. Changes in the economy, increased competition from other providers, cyber incidents such as the [ongoing DDoS attacks] or issues with the quality of service we deliver can impact our customer churn rate. We cannot predict future pricing by our competitors, but we anticipate that price competition will continue. Lower prices offered by our competitors could contribute to an increase in customer churn. We cannot predict the timing, duration or magnitude of any deteriorated economic conditions or its impact on our target of customers. Higher customer churn rates could adversely affect our revenue growth. Higher customer churn rates could cause our dollar-based net retention rate to decline. A sustained and significant growth in the churn rate could have a material adverse effect on our business.

***The market prices for certain of our services have decreased in the past and may decrease in the future, resulting in lower revenue than we anticipate.***

Market prices for certain of our services have decreased over recent years. These decreases resulted from downward market pressure and other factors including:

- technological changes and network expansions, which have resulted in increased transmission capacity available for sale by us and by our competitors; and
- some of our competitors have been willing to accept smaller operating margins in the short term in an attempt to increase long-term revenue.

To retain customers and revenue, we must sometimes reduce prices in response to market conditions and trends. We cannot predict to what extent we may need to reduce our prices to remain competitive or whether we will be able to sustain future pricing levels as our competitors introduce competing services or similar services at lower prices. Our ability to meet price competition may depend on our ability to operate at costs equal to or lower than our competitors or potential competitors. As our prices for some of our services decrease, our operating results may suffer unless we are able to either reduce our operating expenses or increase traffic volume from which we can derive additional revenue.

***The need to obtain additional IP circuits from other providers increases our costs. In addition, the need to interconnect our network to networks that are controlled by others could increase our costs.***

We lease all of our IP circuits from third parties. We could incur material expenses if we were required to locate alternative IP circuits. We may not be able to obtain reasonable alternative IP circuits if needed. Failure to obtain usage of alternative IP circuits, if necessary, could have a material adverse effect on our ability to carry on business operations. In addition, some of our agreements with other providers require the payment of amounts for services whether or not those services are used. Our reliance on third-party providers may reduce our operating flexibility, ability to make timely service changes and ability to control quality of service.

In the normal course of business, we need to enter into interconnection agreements with many local telephone companies, as well as the owners of networks that our customers desire to access to deliver their services. We are not always able to secure these interconnection agreements on favorable terms. In some jurisdictions, we rely on third party access and networks for local connectivity. We are not always able to secure this access and local connectivity on favorable terms. Costs of obtaining service from other communications carriers comprise a significant proportion of the operating expenses of long distance carriers. Changes in regulation, particularly the regulation of telecommunication carriers and local access network owners, could indirectly, but significantly, affect our competitive position. These changes could increase or decrease the costs of providing our services. Further, if problems occur with our third-party providers or local telephone companies, it may cause errors or poor quality communications, and we could encounter difficulties identifying the source of the problem. The occurrence of errors or poor quality communications on our services, whether caused by our platform or a third-party provider, may result in the loss of our existing customers or the delay of adoption of our services by potential customers and may adversely affect our business, results of operations and financial condition.

Network providers also may institute additional fees due to regulatory, competitive or other industry-related changes that increase our costs. For example, in February 2020, a major U.S. cellular carrier introduced a new service offering for Application to Person (“A2P”) messages that adds a new fee for A2P messages delivered to its subscribers. Other cellular carriers may introduce similar fees. While we may be able to negotiate with network providers, absorb the increased costs, or charge these costs to our customers, we cannot assure you that we will be able to do so. In the case of new A2P fees, we currently pass, and expect to continue to pass, these fees on to our customers who send A2P messages to the carrier's subscribers. This is expected to increase our revenue and cost of goods sold, but is not expected to impact the gross profit received for sending these messages. However, these changes may still have a negative impact on our gross margins mathematically. We also may not be able to effectively respond to any new fees if all network providers in a particular market impose equivalent fee structures, if the magnitude of the fees is disproportionately large when compared to the underlying prices paid by our customers, or if the market conditions limit our ability to increase the prices we charge our customers.

***We depend largely on the continued services of our senior management and other key employees, the loss of any of whom could adversely affect our business, results of operations and financial condition.***

Our future performance depends on the continued services and contributions of our senior management and other key employees to execute on our business plan, to develop our platform, to deliver our services to customers, to attract and retain customers and to identify and pursue opportunities. The loss of services of senior management or other key employees, such as those who develop and maintain our service offerings, could significantly delay or prevent the achievement of our development and strategic objectives. In particular, we depend to a considerable degree on the vision, skills, experience and effort of our Chief Executive Officer, David A. Morken. The replacement of any of our senior management personnel or other key employees can involve significant time and costs, and such loss could significantly delay or prevent the achievement of our business objectives. The loss of the services of our senior management or other key employees for any reason could adversely affect our business, results of operations and financial condition.

***If we are unable to hire, retain and motivate qualified personnel, our business will suffer.***

Our future success depends, in part, on our ability to continue to attract and retain highly skilled personnel, and our inability to do so could adversely affect our business, results of operations and financial condition. Competition for talent in the technology industry has become increasingly intense. In 2020 and 2021, the “great resignation” saw a dramatic increase in workers leaving their positions throughout the technology industry, and the market to recruit, retain and motivate talent has become even more competitive. Many key individual contributors, particularly in software development, sales and cloud computing and telecommunications infrastructure, are critical to our success and can attract very significant compensation packages. In addition, we believe that there is, and will continue to be, intense competition for highly skilled management, technical, sales and other personnel with experience in our industry in the Raleigh, North Carolina area, where our headquarters are located, and in other geographic locations where we maintain offices.

We have experienced and may continue to experience difficulties attracting, hiring and retaining highly-skilled personnel with appropriate qualifications, and may not be able to fill positions in desired geographic areas or at all. These difficulties may be exacerbated by the reactions of employees and prospective employees to our policies related to remote working flexibility. As a result, we have also experienced and may continue to experience increased compensation and training costs that may not be offset by either improved productivity or higher sales, which could reduce our profitability.

We seek to provide competitive compensation packages and a high-quality work environment to hire, retain and motivate employees. If we are unable to retain and motivate our existing employees and attract qualified personnel to fill key positions, we may be unable to manage our business effectively, including the development, marketing and sale of our services, which could adversely affect our business, results of operations and financial condition. To the extent we hire personnel from competitors, we also may be subject to allegations that they have been improperly solicited or hired, or that they divulged proprietary or other confidential information.

Volatility or declines in our stock price may also affect our ability to attract and retain key personnel. Employees may be more likely to terminate their employment with us if the shares they own or the shares underlying any restricted stock units have not significantly appreciated in value, or if the value of the shares underlying restricted stock units they hold has depreciated significantly. If we are unable to retain our employees, our business, results of operations and financial condition could be adversely affected.

In addition, we believe our corporate culture has been a key contributor to our success to date. However, in this period of the “great resignation,” we have experienced and may continue to face higher than usual employee turnover rates. As we continue to grow and expand globally and navigate shifting workforce priorities, including the desire of many of our employees and prospective employees for a hybrid work model with the ability to work remotely for part of the week, and the increasing demand of employees and prospective employees for fully remote work, we may find it difficult to maintain important aspects of our corporate culture, which could negatively affect our ability to retain and recruit personnel who are essential to our future success and could ultimately have a negative impact on our ability to innovate our technology and our business. Further, as of December 31, 2021, approximately 33% of our employees have been employed by us for a year or less and we must be able to effectively integrate, develop and motivate a large number of new employees, while maintaining the effectiveness of our business execution and the beneficial aspects of our corporate culture.

***We could be subject to liability for historic and future sales, use and similar taxes, which could adversely affect our results of operations.***

We conduct operations in many tax jurisdictions throughout the United States and internationally. In many of these jurisdictions, non-income-based taxes such as sales, use and telecommunications taxes, including those associated with (or potentially associated with) VoIP telephony services or 911 services, are or may be assessed on our operations. We also face exposure to other non-income-based international taxes such as value added taxes that are or may be assessed on our operations. The systems and procedures necessary to comply in these jurisdictions are complex to develop and challenging to implement. Additionally, we rely heavily on third parties to provide us with key software and services for compliance. If these third parties cease to provide those services to us for any reason, or fail to perform services accurately and completely, we may not be able to accurately bill, collect or remit applicable non-income-based taxes. Historically, we have not billed or collected certain of these taxes and, in accordance with GAAP, we have recorded a provision for our tax exposure in these jurisdictions when it is both probable that a liability has been incurred and the amount of the exposure can be reasonably estimated. These estimates include several key assumptions including, but not limited to, the taxability of our services, the jurisdictions in which we believe we have nexus, and the sourcing of revenue to those jurisdictions. In the event these jurisdictions challenge our assumptions and analysis, our actual exposure could differ materially from our current estimates.

Taxing authorities also may periodically perform audits to verify compliance and include all periods that remain open under applicable law, which customarily range from three to four years. At any point in time, we may undergo audits that could result in significant assessments of past taxes, fines and interest if we were found to be non-compliant. During the course of an audit, a taxing authority may, as a matter of policy, question our interpretation and/or application of their rules in a manner that, if we were not successful in substantiating our position, could potentially result in a significant financial impact to us.

Furthermore, certain jurisdictions in which we do not collect sales, use and similar taxes may assert that such taxes are applicable, which could result in tax assessments, penalties and interest, and we may be required to collect such taxes in the future. Such tax assessments, penalties and interest or future requirements may adversely affect our business, results of operations and financial condition.

We conduct our international operations through subsidiaries and report our taxable income in various jurisdictions worldwide based upon our business operations in those jurisdictions. Our intercompany relationships are subject to complex transfer pricing regulations administered by taxing authorities in various jurisdictions. Also, our tax expense could be affected depending on the applicability of withholding and other taxes under the tax laws of certain jurisdictions in which we have business operations. The relevant revenue and taxing authorities may

disagree with positions we have taken generally, or our determinations as to income and expenses attributable to specific jurisdictions. If such a disagreement were to occur, and our position were not sustained, we could be required to pay additional taxes, interest and penalties, which could result in one-time tax charges, higher effective tax rates, reduced cash flows and lower overall profitability of our operations.

***We may be subject to significant U.S. federal income tax-related liabilities and indemnity obligations if there is a determination that the Spin-Off is taxable for U.S. federal income tax purposes.***

We may be subject to significant U.S. federal income tax-related liabilities with respect to our prior distribution of all of the issued and outstanding shares of the common stock of Relay, Inc. (f/k/a Republic Wireless, Inc.) (“Relay”), our former subsidiary, to our stockholders as of and on November 30, 2016 (the “Spin-Off”), if there is a determination that the Spin-Off is taxable for U.S. federal income tax purposes. In that regard, even if the Spin-Off otherwise qualified as a tax-free transaction to us and our stockholders under Section 355, Section 368(a)(1)(D) and related provisions of the U.S. Internal Revenue Code of 1986, as amended (the “Code”) at the time of the Spin-Off, we would be subject to corporate-level taxable gain under Section 355(e) of the Code (“Section 355(e)”) if there was a 50% or greater change in ownership, by vote or value, of shares of our stock or Relay’s stock that occurred after the Spin-Off as part of a plan or series of related transactions that included the Spin-Off. For purposes of Section 355(e), any acquisitions or issuances of our stock, including pursuant to our initial public offering and pursuant to the reorganizations undertaken and arrangements entered into in connection with our initial public offering, or Relay’s stock, in each case, that occurred within two years after the Spin-Off are generally presumed to be part of a plan or series of related transactions with respect to the Spin-Off.

In connection with the Spin-Off, we received an opinion from Skadden, Arps, Slate, Meagher & Flom LLP substantially to the effect that, among other things, the Spin-Off should qualify as a tax-free transaction for U.S. federal income tax purposes under Section 355 and Section 368(a)(1)(D) of the Code. In addition, in light of the implications that would arise for us if Section 355(e) applied to the Spin-Off, we received an opinion from Kilpatrick Townsend & Stockton LLP in connection with our initial public offering substantially to the effect that (i) as of the date of the initial public offering, we would not be required to recognize gain with respect to the Spin-Off pursuant to Section 355(e), and (ii) any increases in voting power attributable to conversions of our Class B common stock to Class A common stock by those who held our Class B common stock as of the date of the initial public offering would not cause us to recognize gain with respect to the Spin-Off pursuant to Section 355(e) (together with the opinion from Skadden, Arps, Slate, Meagher & Flom LLP with respect to the Spin-Off, the “Tax Opinions”). Neither of the Tax Opinions is binding on the Internal Revenue Service (the “IRS”) or the courts, however, and the IRS or the courts may not agree with the conclusions reached in the Tax Opinions. Moreover, the Tax Opinions were based upon, among other things, the laws in effect at the time of each of the Tax Opinions and certain assumptions and representations as to factual matters made by us. Any change in applicable law, which may be retroactive, or the failure of any such assumptions or representations to be true, could adversely affect the validity of the conclusions reached in the Tax Opinions.

If the conclusions of the Tax Opinions are not correct, or if the Spin-Off is otherwise ultimately determined to be a taxable transaction, we would be liable for significant U.S. federal income tax related liabilities. In addition, pursuant to the Tax Sharing Agreement, dated November 30, 2016, between us and Relay (the “Tax Sharing Agreement”), we must generally indemnify Relay for any taxes or losses incurred by it (or its respective subsidiaries) resulting from the Spin-Off failing to qualify as a tax-free transaction for U.S. federal income tax purposes (including due to the application of Section 355(e)) as a result of subsequent actions we take or fail to take. The amount of any indemnity obligations we may have under the Tax Sharing Agreement in such case may be material.

Even if Section 355(e) does not apply to the Spin-Off as of the date of our initial public offering or as a result of an increase in voting power attributable to conversions of our Class B common stock by those who held such stock as of our initial public offering, subsequent acquisitions or issuances of our stock could be treated as part of a plan or series of related transactions with respect to the Spin-Off. Accordingly, in light of the requirements of Section 355(e), we might forego share repurchases, stock issuances and other strategic transactions.

Notwithstanding the foregoing, it is possible that we, Relay or the holders of our respective stock might inadvertently cause, permit or otherwise not prevent a change in the ownership of our stock or Relay's stock to occur, which would cause Section 355(e) to apply to the Spin-Off, thereby triggering significant U.S. federal income tax-related liabilities and indemnity obligations under the Tax Sharing Agreement of approximately \$50 million. This approximation is based on our current expectations and the tax laws in effect as of our initial public offering. However, we cannot provide any assurance that this estimate will prove to be accurate in the event that Section 355(e) were to apply.

***If our estimates or judgments relating to our critical accounting policies prove to be incorrect, our results of operations could be adversely affected.***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, as provided in "Management's Discussion and Analysis of Financial Condition and Results of Operations." The results of these estimates form the basis for making judgments about the carrying values of assets, liabilities and equity, and the amount of revenue and expenses that are not readily apparent from other sources. Significant assumptions and estimates used in preparing our consolidated financial statements include those related to revenue recognition, capitalized internal-use software costs, other non-income taxes, business combination and valuation of goodwill and purchased intangible assets and share-based compensation. Our results of operations may be adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our results of operations to fall below the expectations of securities analysts and investors, resulting in a decline in the trading price of our Class A common stock.

***If we fail to maintain an effective system of disclosure controls and internal control over financial reporting, our ability to produce timely and accurate financial statements or comply with applicable regulations could be impaired.***

We are subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), and the rules and regulations of the applicable listing standards of the NASDAQ Global Select Market. We expect that the requirements of these rules and regulations will continue to increase our legal, accounting and financial compliance costs, make some activities more difficult, time-consuming and costly and place significant strain on our personnel, systems and resources.

The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. Our disclosure controls and other procedures are designed to ensure that information required to be disclosed by us in the reports that we will file with the SEC is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that information required to be disclosed in reports under the Exchange Act is accumulated and communicated to our principal executive and financial officers, and we continue to evaluate how to improve controls. We are also continuing to improve our internal control over financial reporting. In order to develop, maintain and improve the effectiveness of our disclosure controls and procedures and internal control over financial reporting, we have expended, and anticipate that we will continue to expend, significant resources, including accounting-related costs and significant management oversight.

Our current controls and any new controls that we develop may become inadequate because of changes in conditions in our business. Further, weaknesses in our disclosure controls and internal control over financial reporting may be discovered in the future. Any failure to develop or maintain effective controls or any difficulties encountered in their implementation or improvement could harm our results of operations or cause us to fail to meet our reporting obligations and may result in a restatement of our consolidated financial statements for prior periods. Any failure to implement and maintain effective internal control over financial reporting could also adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting. Ineffective disclosure controls



and procedures and internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our Class A common stock. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on the NASDAQ Global Select Market.

Our independent registered public accounting firm is required to attest to the effectiveness of our internal control over financial reporting. Our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our internal control over financial reporting is documented, designed or operating. Any failure to maintain effective disclosure controls and internal control over financial reporting could have a material and adverse effect on our business, results of operations and financial condition and could cause a decline in the trading price of our Class A common stock.

***If our goodwill or intangible assets become impaired, we may be required to record a significant charge to earnings.***

We review our intangible assets for impairment when events or changes in circumstances indicate the carrying value may not be recoverable. Goodwill is required to be tested for impairment at least annually. An adverse change in market conditions, particularly if such change has the effect of changing one of our critical assumptions or estimates, could result in a change to the estimation of fair value that could result in an impairment charge to our goodwill or intangible assets. Any such charges may adversely affect our results of operations.

***We face exposure to foreign currency exchange rate fluctuations, and such fluctuations could adversely affect our business, results of operations and financial condition.***

We face exposure to the effects of fluctuations in currency exchange rates. While historically we have primarily transacted in U.S. dollars, we generally have transacted with customers and partners in Europe in British Pounds and Euros. We expect to expand the number of transactions with customers and partners that are denominated in foreign currencies in the future as we continue to expand our business internationally. We also incur expenses for some of our network service provider costs outside of the United States in local currencies and for employee compensation and other operating expenses in local currency. Fluctuations in the exchange rates between the U.S. dollar and other currencies could result in an increase to the U.S. dollar equivalent of such expenses.

In addition, our international subsidiaries maintain net assets denominated in currencies other than the functional operating currencies of these entities. As we expand our international operations, we will become more exposed to the effects of fluctuations in currency exchange rates. Accordingly, changes in the value of foreign currencies relative to the U.S. dollar may affect our results of operations due to transactional and translational re-measurements. Such foreign currency exchange rate fluctuations could make it more difficult to detect underlying trends in our business and results of operations. The trading price of our Class A common stock also could be adversely affected if fluctuations in currency exchange rates cause our results of operations to differ from our expectations or the expectations of our investors and securities analysts who follow our stock.

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.

***Earthquakes, hurricanes, fires, floods, pandemics, power outages, terrorist attacks, acts of war, civilian unrest and other significant events could disrupt our business and ability to serve our clients.***

A significant event, such as an earthquake, hurricane, a fire, a flood, a pandemic, a power outage, terrorist attack, act of war or civilian unrest could have a material adverse effect on our business, results of operations or financial condition. For example, the rapid and global spread of COVID-19 has disrupted businesses and increased

travel restrictions. Health concerns or governmental, legal, political or regulatory developments in the United States or other countries in which we or our customers, partners and service providers operate could cause economic, labor or social instability and could materially adversely affect our business and our results of operations and financial condition. Future developments, which are very uncertain, include evolving responses by governments and businesses. These future developments could materially adversely affect our business and our results of operations and financial condition. Our IP network is designed to be redundant and to offer seamless backup support in an emergency. While our network is designed to withstand the loss of any one data center at any point in time, the simultaneous failure of multiple data centers could disrupt our ability to serve our clients. Additionally, certain of our capabilities cannot be made redundant feasibly or cost-effectively. Acts of physical or cyber terrorism or other geopolitical unrest, including acts of war, also could cause disruptions in our business. The adverse impacts of these risks may increase if our disaster recovery plans prove to be inadequate.

***We may acquire or invest in companies, which may divert our management's attention and result in debt or dilution to our stockholders. We may not be able to efficiently and effectively integrate acquired operations, and thus may not fully realize the anticipated benefits from 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 may also enter into relationships with other businesses to expand our products and platform, which could involve preferred or exclusive licenses, additional channels of distribution, discount pricing or investments in other companies.

Achieving the anticipated benefits of any acquisitions depends in part upon whether we can integrate new businesses in an efficient and effective manner. The integration of any acquired businesses involves a number of risks, including, but not limited to:

- demands on management related to any significant increase in size after the acquisition;
- the disruption of ongoing business and the diversion of management's attention from the management of daily operations to management of integration activities;
- failure to fully achieve expected synergies and costs savings;
- unanticipated impediments in the integration of departments, systems, including accounting systems, technologies, books and records and procedures, as well as in maintaining uniform standards, controls, including internal control over financial reporting required by the Sarbanes-Oxley Act, procedures and policies;
- difficulty establishing and maintaining appropriate governance, reporting relationships, policies, controls, and procedures for the acquired business, particularly if it is based in a country or region where we did not previously operate;
- new or more stringent regulatory compliance obligations and costs by virtue of the acquisition, including risks related to international acquisitions that may operate in new jurisdictions or geographic areas where we may have no or limited experience;
- loss of customers or the failure of customers to order incremental services that we expect them to order;
- difficulty and delays in integrating the products, technology platforms, operations, systems, and personnel of the acquired business with our own, particularly if the acquired business is outside of our core competencies and current geographic markets;
- failure to provision services that are ordered by customers during the integration period;
- higher integration costs than anticipated;

- difficulties in the assimilation and retention of highly qualified, experienced employees, many of whom may be geographically dispersed;
- litigation, investigations, proceedings, fines, or penalties arising from or relating to the transaction or the acquired business, and any resulting liabilities may exceed our forecasts;
- acquisition of businesses with different revenue models, different contractual relationships, and increased customer concentration risks;
- assumption of long-term contractual obligations, commitments, or liabilities (for example, the costs associated with leased facilities), which could adversely impact our efforts to achieve and maintain profitability and impair our cash flow;
- failure to successfully evaluate or utilize the acquired business' technology and accurately forecast the financial impact of an acquisition, including accounting charges; and
- drag on our overall revenue growth rate or an increase of our net loss, which could cause analysts and investors to reduce their valuation of our company.

Successful integration of any acquired businesses or operations will depend on our ability to manage these operations, realize opportunities for revenue growth presented by strengthened service offerings and expanded geographic market coverage, obtain better terms from our vendors due to increased buying power, and eliminate redundant and excess costs to fully realize the expected synergies. Because of difficulties in combining geographically distant operations and systems which may not be fully compatible, we may not be able to achieve the financial strength and growth we anticipate from the acquisitions.

We may not realize our anticipated benefits from our acquisitions, if any, or may be unable to efficiently and effectively integrate acquired operations as planned. If we fail to integrate acquired businesses and operations efficiently and effectively or fail to realize the benefits we anticipate, we would be likely to experience material adverse effects on our business, financial condition, results of operations and future prospects.

Any acquisitions may also require us to issue debt or equity securities, use our cash resources, incur debt or contingent liabilities, amortize intangibles, or write-off acquisition-related expenses. In addition, we cannot predict market reactions to any acquisitions we may make or to any failure to announce any future acquisitions.

While we would conduct due diligence in connection with any acquisition opportunities, there may be risks or liabilities that such due diligence efforts fail to discover, that are not disclosed to us or that we inadequately assess. The failure to timely identify any material liabilities associated with any acquisitions could adversely affect our business, results of operations, and financial condition.

#### **Risks Related to the Acquisition of Voxbone**

***Although we expect that the acquisition of Voxbone will result in synergies and other benefits to us, we may not realize those benefits because of difficulties related to integration, the achievement of synergies and other challenges.***

On November 2, 2020, we acquired Voxbone. Prior to the completion of this acquisition, we and Voxbone operated independently, and there can be no assurances that our businesses can be combined in a manner that allows for the achievement of substantial benefits. The integration process is ongoing and continues to require significant time and resources, and we may not be able to manage the process successfully, as our ability to acquire and integrate larger or more complex companies, products, or technology in a successful manner is unproven. If we are not able to successfully integrate Voxbone's business with ours, fail to achieve the synergies we anticipated would result from the acquisition, such as cross-selling to our legacy customers in international markets in which we now operate, or fail to pursue a unified customer and product strategy successfully, the anticipated benefits of the acquisition may not be realized fully or may take longer than expected to be realized.

We have incurred, and may continue to incur, significant, non-recurring costs in connection with the acquisition and integrating our operations with those of Voxbone, including costs to consolidate business support systems and service offerings. Management cannot ensure that the elimination of duplicative costs or the realization of other efficiencies will offset the transaction and integration costs in the near term or at all.

### **Risks Related to the Convertible Notes**

#### ***Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our indebtedness.***

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance the Convertible Notes depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional debt financing or equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations. In addition, any of our future debt agreements may contain restrictive covenants that may prohibit us from adopting any of these alternatives. Our failure to comply with these covenants could result in an event of default which, if not cured or waived, could result in the acceleration of our indebtedness.

#### ***We may incur substantially more debt or take other actions which would intensify the risks discussed above.***

We and our subsidiaries may be able to incur substantial additional debt in the future, some of which may be secured debt. We will not be restricted under the terms of the indentures governing the Convertible Notes from incurring additional debt, securing existing or future debt, recapitalizing our debt or taking a number of other actions that are not limited by the terms of the indenture governing the Convertible Notes that could have the effect of diminishing our ability to make payments on the Convertible Notes when due.

#### ***We may not have the ability to raise the funds necessary for cash settlement upon conversion of the Convertible Notes or to repurchase the Convertible Notes for cash following a fundamental change, and our future debt may contain limitations on our ability to pay cash upon conversion of the Convertible Notes or to repurchase the Convertible Notes.***

Subject to limited exceptions, holders of the Convertible Notes have the right to require us to repurchase their Convertible Notes upon the occurrence of a fundamental change at a cash repurchase price generally equal to 100% of the principal amount of the Convertible Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date. In addition, upon conversion of the Convertible Notes, unless we elect to deliver solely shares of our Class A common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be required to make cash payments in respect of the Convertible Notes being converted. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of Convertible Notes surrendered therefor or pay the cash amounts due upon conversion. In addition, our ability to repurchase the Convertible Notes or to pay cash upon conversions of the Convertible Notes may be limited by applicable law, by regulatory authorities or by agreements governing our future indebtedness. Our failure to repurchase the Convertible Notes at a time when such repurchase is required by the indentures governing the Convertible Notes or to pay the cash amounts due upon future conversions of the Convertible Notes as required by such indentures would constitute a default under such indentures. A default under the indentures governing the Convertible Notes or the fundamental change itself may also lead to a default under agreements governing our existing or future indebtedness, which may result in such existing or future indebtedness becoming immediately payable in full. We may not have sufficient funds to satisfy all amounts due under such existing or future indebtedness and repurchase the Convertible Notes or make cash payments upon conversions thereof.

***The accounting method for convertible debt securities that may be settled in cash, such as the Convertible Notes, could have a material effect on our reported financial results.***

In May 2008, the Financial Accounting Standards Board (“FASB”), issued FASB Staff Position No. APB 14-1, Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (Including Partial Cash Settlement), which has subsequently been codified as Accounting Standards Codification (“ASC”) 470-20, Debt with Conversion and Other Options. Under ASC 470-20, an entity must separately account for the liability and equity components of the convertible debt instruments (such as the Convertible Notes) that may be settled entirely or partially in cash upon conversion in a manner that reflects the issuer’s economic interest cost. The effect of ASC 470-20 on the accounting for the Convertible Notes is that the equity component is required to be included in the additional paid-in capital section of stockholders’ equity on our consolidated balance sheet, and the value attributed to the equity component would be treated as original issue discount for purposes of accounting for the debt component of the Convertible Notes. As a result, we will be required to record a greater amount of non-cash interest expense in current periods presented as a result of the amortization of the discounted carrying value of the Convertible Notes to their face amount over the term of the Convertible Notes. We will report lower net income in our financial results because ASC 470-20 will require interest to include both the current period’s amortization of the debt discount and the instrument’s coupon interest, which could adversely affect our reported or future financial results, the trading price of our Class A common stock and the trading price of the Convertible Notes.

In addition, under certain circumstances, convertible debt instruments (such as the Convertible Notes) that may be settled entirely or partly in cash are currently accounted for utilizing the treasury stock method, the effect of which is that the shares of Class A common stock issuable upon conversion of the Convertible Notes are not included in the calculation of diluted earnings per share except to the extent that the conversion value of the Convertible Notes exceeds their principal amount. Under the treasury stock method, for diluted earnings per share purposes, the transaction is accounted for as if the number of shares of Class A common stock that would be necessary to settle such excess, if we elected to settle such excess in shares, are issued.

However, in August 2020, the FASB published an accounting standards update 2020-06 (“ASU 2020-06”), which amends these accounting standards by reducing the number of accounting models for convertible instruments and limiting instances of separate accounting for the debt and equity or a derivative component of the convertible debt instruments. ASU 2020-06 also will no longer allow the use of the treasury stock method for convertible instruments for purposes of calculating diluted earnings per share and instead require application of the “if-converted” method. Under that method, diluted earnings per share will generally be calculated assuming that all the Convertible Notes were converted solely into shares of Class A common stock at the beginning of the reporting period, unless the result would be anti-dilutive, which could adversely affect our diluted earnings per share. However, if the principal amount of the convertible debt instrument being converted is required to be paid in cash and only the excess is permitted to be settled in shares, the if-converted method will produce a similar result as the treasury stock method prior to the adoption of ASU 2020-06 for such convertible debt instrument. These amendments will be effective for public companies for fiscal years beginning after December 15, 2021, with early adoption permitted, but no earlier than fiscal years beginning after December 15, 2020.

***The conditional conversion feature of the Convertible Notes, if triggered, may adversely affect our financial condition and operating results.***

In the event the conditional conversion feature of the Convertible Notes is triggered, holders of Convertible Notes will be entitled to convert the Convertible Notes at any time during specified periods at their option. See “Description of Notes—Conversion Rights.” If one or more holders elect to convert their Convertible Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our Class A common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Convertible Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Convertible Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

***The Capped Calls may affect the value of the Convertible Notes and our Class A common stock.***

In connection with the pricing of the 2026 Convertible Notes and the 2028 Convertible Notes, we entered into privately negotiated Capped Calls with certain financial institutions (the “option counterparties”). The Capped Calls are expected generally to reduce the potential dilution upon any conversion of the Convertible Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted Convertible Notes, as the case may be, with such reduction and/or offset subject to a cap.

We have been advised that, in connection with establishing their initial hedges of the Capped Calls, the option counterparties or their respective affiliates entered into various derivative transactions with respect to our Class A common stock concurrently with or shortly after the pricing of the Convertible Notes.

In addition, the option counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our Class A common stock and/or purchasing or selling our Class A common stock or other securities of ours in secondary market transactions from time to time prior to the maturity of the Convertible Notes (and are likely to do so during any observation period related to a conversion of Convertible Notes). This activity could also cause or avoid an increase or a decrease in the market price of our Class A common stock or the Convertible Notes, which could affect your ability to convert the Convertible Notes and, to the extent the activity occurs during any observation period related to a conversion of Convertible Notes, it could affect the number of shares and value of the consideration that you will receive upon conversion of such Convertible Notes.

We do not make any representation or prediction as to the direction or magnitude of any potential effect that the transactions described above may have on the price of the Convertible Notes or our Class A common stock. In addition, we do not make any representation that the option counterparties will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

***We are subject to counterparty risk with respect to the Capped Calls.***

The option counterparties are financial institutions, and we will be subject to the risk that any or all of them might default under the Capped Calls. Our exposure to the credit risk of the option counterparties will not be secured by any collateral. Past global economic conditions have resulted in the actual or perceived failure or financial difficulties of many financial institutions. If an option counterparty becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at that time under the capped call transactions with such option counterparty. Our exposure will depend on many factors but, generally, an increase in our exposure will be correlated to an increase in the market price and in the volatility of our Class A common stock. In addition, upon a default by an option counterparty, we may suffer more dilution than we currently anticipate with respect to our Class A common stock. We can provide no assurances as to the financial stability or viability of the option counterparties.

**Risks Related to Ownership of Our Class A Common Stock**

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

Prior to our initial public offering, there was no public market for shares of our Class A common stock. On November 10, 2017, we sold shares of our Class A common stock to the public at \$20.00 per share. From November 10, 2017, the date that our Class A common stock began trading on the NASDAQ Global Select Market, through December 31, 2021, the trading price of our Class A common stock has ranged from \$18.05 per share to \$198.61 per share. The trading price of our Class A common stock may continue to be volatile and could fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- general market volatility caused by COVID-19, acts of war, or other significant domestic or international events;
- price and volume fluctuations in the overall stock market from time to time;

- volatility in the trading prices and trading volumes of technology stocks;
- volatility in the trading volumes of our Class A common stock;
- changes in operating performance and stock market valuations of other technology companies generally, or those in our industry in particular;
- sales of shares of our Class A common stock by us or our stockholders;
- failure of securities analysts to maintain coverage of us, changes in financial estimates by securities analysts who follow our company, or our failure to meet these estimates or the expectations of investors;
- the financial projections we may provide to the public, any changes in those projections or our failure to meet those projections;
- announcements by us or our competitors of new products or services;
- the public's reaction to our press releases, other public announcements and filings with the SEC;
- rumors and market speculation involving us or other companies in our industry;
- actual or anticipated changes in our results of operations or fluctuations in our results of operations;
- actual or anticipated developments in our business, our competitors' businesses or the competitive landscape generally;
- litigation involving us, our industry or both;
- regulatory actions or developments affecting our operations, those of our competitors or our industry more broadly;
- developments or disputes concerning our intellectual property or other proprietary rights;
- announced or completed acquisitions of businesses, products, services or technologies by us or our competitors;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- changes in accounting standards, policies, guidelines, interpretations or principles;
- new rules adopted by certain index providers, such as S&P Dow Jones, that limit or preclude inclusion of companies with multi-class capital structures in certain of their indices;
- any significant change in our management; and
- general economic conditions and slow or negative growth of our markets.

In addition, in the past, securities class action litigation has often been instituted following periods of volatility in the overall market and the market price of a particular company's securities. This litigation, if instituted against us, could result in substantial costs and a diversion of our management's attention and resources.

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

The market price of our Class A common stock could decline as a result of substantial sales of our Class A common stock, particularly sales by our directors, executive officers and significant stockholders, or the perception in the market that holders of a large number of shares intend to sell their shares.

Additionally, the shares of Class A common stock subject to outstanding options and restricted stock unit awards under our equity incentive plans and the shares reserved for future issuance under our equity incentive plans will become eligible for sale in the public market upon issuance. Certain holders of our Class A common stock have rights, subject to some conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for our stockholders or ourselves.

***The dual class structure of our common stock has the effect of concentrating voting control with those stockholders who held our capital stock prior to the completion of our initial public offering. This may limit or preclude stockholders' ability to influence corporate matters, including the election of directors, amendments to our organizational documents and any merger, consolidation, sale of all or substantially all of our assets, or other major corporate transaction requiring stockholder approval.***

Our Class A common stock has one vote per share, and our Class B common stock has ten votes per share. Because of the ten-to-one voting ratio between our Class B and Class A common stock, the holders of our Class B common stock collectively will continue to control a majority of the combined voting power of our common stock and therefore be able to control all matters submitted to our stockholders for approval. This concentrated control limits or precludes stockholders' ability to influence corporate matters for the foreseeable future, including the election of directors, amendments to our organizational documents, and any merger, consolidation, sale of all or substantially all of our assets, or other major corporate transaction requiring stockholder approval. In addition, this may prevent or discourage unsolicited acquisition proposals or offers for our capital stock that stockholders may feel are in their best interest as one of our stockholders.

Future transfers by holders of Class B common stock will generally result in those shares converting to Class A common stock, subject to limited exceptions, such as certain transfers effected for estate planning purposes. The conversion of Class B common stock to Class A common stock will have the effect, over time, of increasing the relative voting power of those holders of Class B common stock who retain their shares in the long term.

***We cannot predict the impact our capital structure may have on our stock price.***

In July 2017, S&P Dow Jones, a provider of widely followed stock indices, announced that companies with multiple share classes, such as ours, will not be eligible for inclusion in certain of their indices. As a result, our Class A common stock will likely not be eligible for these stock indices. Many investment funds are precluded from investing in companies that are not included in such indices, and these funds would be unable to purchase our Class A common stock if we were not included in such indices. We cannot assure you that other stock indices will not take a similar approach to S&P Dow Jones in the future. Exclusion from indices could make our Class A common stock less attractive to investors and, as a result, the market price of our Class A common stock could be adversely affected.

In addition, several stockholder advisory firms have announced their opposition to the use of multiple class structures. As a result, the dual class structure of our common stock may cause stockholder advisory firms to publish negative commentary about our corporate governance practices or otherwise seek to cause us to change our capital structure. Any actions or publications by stockholder advisory firms critical of our corporate governance practices or capital structure could also adversely affect the value of our Class A common stock.

***We may become effectively controlled by David A. Morken, our Co-Founder and Chief Executive Officer, whose interests may differ from other stockholders.***

If all or substantially all of the holders of our Class B common stock except for Mr. Morken and his affiliates convert their shares into Class A common stock voluntarily or otherwise, Mr. Morken may control more than 25% of the combined voting power of our outstanding capital stock. As a result, Mr. Morken may have the ability to effectively control the appointment of our management, the entering into of mergers, sales of substantially all or all of our assets and other extraordinary transactions and influence amendments to our certificate of incorporation and bylaws. In any of these matters, the interests of Mr. Morken may differ from or conflict with your interests. Moreover, this concentration of ownership may also adversely affect the trading price for our Class A



common stock to the extent investors perceive disadvantages in owning stock of a company with a controlling stockholder.

***If securities or industry analysts cease publishing research or reports about us, our business or our market, or if they change their recommendations regarding our Class A common stock adversely, the trading price of our Class A common stock and trading volume could decline.***

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

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

Our second amended and restated certificate of incorporation, second amended and restated bylaws and Delaware law contain provisions which could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by our board of directors. Among other things, our second amended and restated certificate of incorporation and second amended and restated bylaws include provisions:

- authorizing “blank check” preferred stock, which could be issued by our board of directors without stockholder approval and may contain voting, liquidation, dividend and other rights superior to our Class A and Class B common stock;
- limiting the liability of, and providing indemnification to, our directors and officers;
- limiting the ability of our stockholders to call and bring business before special meetings;
- providing for a dual class common stock structure in which holders of our Class B common stock have the ability to control the outcome of matters requiring stockholder approval, even if they own significantly less than a majority of the outstanding shares of our Class A and Class B common stock, including the election of directors and significant corporate transactions, such as a merger or other sale of our company or its assets;
- providing that our board of directors is classified into three classes of directors with staggered three-year terms;
- prohibiting stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- requiring super-majority voting to amend some provisions in our second amended and restated certificate of incorporation and second amended and restated bylaws;
- requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our board of directors; and
- controlling the procedures for the conduct and scheduling of board of directors and stockholder meetings.

These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management.

As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation Law, which prevents certain stockholders holding more than 15% of our outstanding

common stock from engaging in certain business combinations without approval of the holders of at least two-thirds of our outstanding common stock not held by such 15% or greater stockholder.

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

***Our second amended and restated certificate of incorporation and our second amended and restated bylaws include super-majority voting provisions that will limit your ability to influence corporate matters.***

Our second amended and restated certificate of incorporation and our second amended and restated bylaws include provisions that require the affirmative vote of two-thirds of all of the outstanding shares of our capital stock entitled to vote to effect certain changes. These changes include amending or repealing our second amended and restated bylaws or second amended and restated certificate of incorporation or removing a director from office for cause. If all or substantially all of the holders of our Class B common stock convert their shares into Class A common stock voluntarily or otherwise, Mr. Morken may control the majority of the voting power of our outstanding capital stock, and therefore he may have the ability to prevent any such changes, which will limit a stockholder's ability to influence corporate matters.

***Our second amended and restated bylaws provide, subject to certain exceptions, that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for certain stockholder litigation matters, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or stockholders.***

Our second amended and restated bylaws provide, subject to limited exceptions, that the Court of Chancery of the State of Delaware will, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or stockholder to us or our stockholders; (iii) any action asserting a claim against us that is governed by the internal affairs doctrine; or (iv) any action arising pursuant to any provision of the Delaware General Corporation Law, our second amended and restated certificate of incorporation or our second amended and restated bylaws. If a stockholder files an action within the scope of the preceding sentence in any other court than a court located in Delaware, the stockholder shall be deemed to have consented to the provisions of our second amended and restated bylaws described above. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provision contained in our second amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could materially adversely affect our business, financial condition and results of operations.

***We may need additional capital in the future and such capital may be limited or unavailable. Failure to raise capital when needed could prevent us from growing in accordance with our plans.***

We may require more capital in the future from equity or debt financings to fund our operations, finance investments in equipment and infrastructure, acquire complementary businesses and technologies, and respond to competitive pressures and potential strategic opportunities. If we are required to raise additional funds through further issuances of equity or other securities convertible into equity, our existing stockholders could suffer significant dilution, and any new shares we issue could have rights, preferences or privileges senior to those of the holders of our Class A common stock. The additional capital we may seek may not be available on favorable terms or at all. If we are unable to obtain capital on favorable terms or at all, we may have to reduce our operations or forego opportunities, and this may have a material adverse effect on our business, financial condition and results of operations.

***We do not intend to pay dividends for the foreseeable future.***

We have never declared or paid any cash dividends on our Class A common stock and do not intend to pay any cash dividends in the foreseeable future. We anticipate that we will retain all of our future earnings for use in the development of our business and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, investors must rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

***If a large number of shares of our Class A common stock is sold in the public market, the sales could reduce the trading price of our Class A common stock and impede our ability to raise future capital.***

We cannot predict what effect, if any, future issuances by us of our Class A common stock will have on the market price of our Class A common stock. In addition, shares of our Class A common stock that we issue in connection with an acquisition may not be subject to resale restrictions. The market price of our Class A common stock could drop significantly if certain large holders of our Class A common stock, or recipients of our Class A common stock in connection with an acquisition, sell all or a significant portion of their shares of Class A common stock or are perceived by the market as intending to sell these shares other than in an orderly manner. In addition, these sales could impair our ability to raise capital through the sale of additional Class A common stock in the capital markets.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

Our corporate headquarters is located in Raleigh, North Carolina, where we lease approximately 120,041 square feet of office space at 900 Main Campus Drive and 81,459 square feet of additional office space, of which 17,073 square feet of space is subject to a facilities sharing agreement with Relay on the Centennial Campus of North Carolina State University in Raleigh, North Carolina.

We maintain offices in locations in the United States and internationally. In addition to our headquarters, we lease space in Denver, CO; Rochester, NY; Austin, TX; San Francisco, CA; Simi Valley, CA; Brussels, Belgium; London, U.K.; Dublin, Ireland; Iasi, Romania; Singapore; Frankfurt, Germany; and Madrid, Spain.

We maintain data centers located in Raleigh, NC (including our network operations center); Los Angeles, CA; Dallas, TX; Atlanta, GA; New York, NY; Frankfurt, Germany; and London, U.K.

We currently lease all our facilities and do not own any real property. On June 4, 2021, we purchased approximately 40 acres of undeveloped land from the state of North Carolina to construct a new headquarters in Raleigh, NC. We intend to relocate our corporate headquarters in May 2023. We believe this new facility will provide the additional space needed to accommodate our growing work force.

**Item 3. Legal Proceedings**

Phone Recovery Services, LLC and Phone Administrative Services, Inc. acting or purporting to act on behalf of applicable jurisdictions, or the applicable county or city itself, have filed multiple lawsuits against us and/or one of our subsidiaries alleging that we failed to bill, collect and remit certain taxes and surcharges associated with the provision of 911 services.

The following county or municipal governments have named us in lawsuits that remain unresolved and are associated with the collection and remittance of 911 taxes and surcharges: (a) the City and County of San Francisco, California; (b) the following Illinois jurisdictions, collectively: Cook and Kane Counties, Illinois, the City of Chicago, Illinois, and the State of Illinois, (c) the State of New York, (d) Allegheny County, Pennsylvania, and (e) the State of Rhode Island. The complaints allege that we failed to bill, collect and remit certain taxes and surcharges associated with 911 service pursuant to applicable laws.

On November 30, 2020, we were named as a defendant in a Second Amended Class Action Complaint in a putative class action captioned *Diana Mey v. All Access Telecom, Inc., et al.* pending in the United States District Court, Northern District of West Virginia, relating to the alleged failure to block unsolicited phone calls to the plaintiff and putative class members.

We intend to vigorously defend these lawsuits and believe we have meritorious defenses to each. However, litigation is inherently uncertain, and any judgment or injunctive relief entered against us or any adverse settlement could negatively affect our business, results of operations and financial condition.

In addition to the litigation discussed above, from time to time, we may be subject to legal actions and claims in the ordinary course of business. We have received, and may in the future continue to receive, claims from third parties relating to number management, and claims asserting, among other things, infringement of their intellectual property rights. Future litigation may be necessary to defend ourselves, our partners and our customers by determining the scope, enforceability and validity of third-party proprietary rights, or to establish our proprietary rights. The results of any current or future litigation cannot be predicted with certainty, and regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources, and other factors.

**Item 4. Mine Safety Disclosures**

Not applicable.

## PART II - OTHER INFORMATION

### Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

#### Market Information for Class A Common Stock

Our Class A common stock has been listed on the NASDAQ Global Select Market under the symbol “BAND” since November 10, 2017. Prior to that date, there was no public trading market for our Class A common stock.

#### Stockholders

As of February 18, 2022, we had 22 holders of record of our Class A and Class B common stock. The actual number of stockholders is greater than this number of record holders and includes stockholders who are beneficial owners but whose shares are held in street name by brokers and other nominees.

#### Dividend Policy

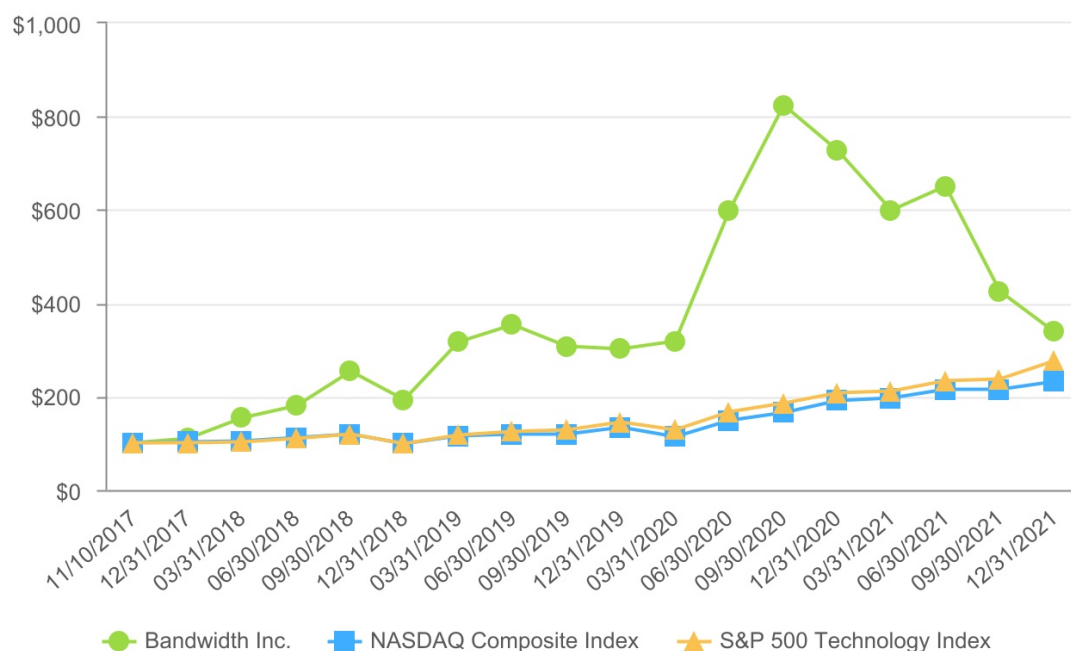
We have never declared or paid any cash dividend on our common stock. We currently intend to retain all of our future earnings, if any, generated by our operations for the development and growth of our business for the foreseeable future. The decision to pay dividends is at the discretion of our board of directors and depends upon our financial condition, results of operations, capital requirements, and other factors that our board of directors deems relevant.

#### Stock Performance Graph

*This performance graph shall not be deemed “soliciting material” or to be “filed” with the SEC for purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities under that Section, and shall not be deemed to be incorporated by reference into any filing of Bandwidth Inc. under the Securities Act or the Exchange Act.*

The graph below compares the cumulative total return to our stockholders between November 10, 2017 (the date our Class A common stock commenced trading on the NASDAQ Global Select Market) through December 31, 2021 in comparison to the NASDAQ Composite Index and the S&P 500 Information Technology Index. The graph assumes \$100 was invested in the Class A common stock of Bandwidth Inc., the NASDAQ Composite Index and the S&P 500 Information Technology Index, in each case on November 10, 2017, and assumes reinvestment of any dividends.

The comparisons in the graph below are based on historical data and are not indicative of, nor intended to forecast, the future performance of our Class A common stock.



**Securities Authorized for Issuance under Equity Compensation Plans**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the SEC within 120 days of the fiscal year ended December 31, 2021.

**Recent Sales of Unregistered Securities**

In March 2021, we issued \$250 million in aggregate principal amount of our 2028 Convertible Senior Notes. In connection with the offering of the Notes, we entered into privately-negotiated capped call transactions with certain counterparties (the “2028 Capped Calls”). The 2028 Capped Calls each have an initial strike price of approximately \$179.27 per share, subject to certain adjustments, which corresponds to the initial conversion price of the 2028 Convertible Notes. The 2028 Capped Calls have initial cap prices of \$260.76 per share, subject to certain adjustments. The 2028 Capped Calls cover, subject to anti-dilution adjustments, approximately 1,917,450 shares of our Class A common stock. See Note 8, “Debt,” to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q for additional information about the 2028 Convertible Notes and 2028 Capped Calls.

We offered and sold the 2028 Convertible Notes to the initial purchasers in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act, and for resale by the initial purchasers to qualified institutional buyers pursuant to the exemption from registration provided by Rule 144A under the Securities Act. We relied on these exemptions from registration based in part on representations made by the initial purchasers in the purchase agreement dated March 11, 2021. The shares of the Class A common stock issuable upon conversion of the 2028 Convertible Notes, if any, have not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

To the extent that any shares of the Class A common stock are issued upon conversion of the 2028 Convertible Notes, they will be issued in transactions anticipated to be exempt from registration under the Securities Act by virtue of Section 3(a)(9) thereof, because no commission or other remuneration is expected to be paid in

connection with conversion of the 2028 Convertible Notes, and any resulting issuance of shares of the Class A common stock.

**Item 6. [Reserved]**

## Management's Discussion and Analysis

### Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes that are included elsewhere in this Annual Report on Form 10-K. This discussion contains forward-looking statements based upon current plans, expectations and beliefs that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" in this Annual Report on Form 10-K. Our fiscal year ends on December 31.*

#### Overview

We are a leading global enterprise cloud communications company. Our solutions include a broad range of software Application Programming Interfaces ("APIs") for voice, messaging and emergency services. Our sophisticated and easy-to-use software APIs allow enterprises to enhance their products and services by incorporating advanced, global connectivity for voice, messaging and emergency services communications capabilities. Companies use our platform to more frequently and seamlessly connect with their end users, add voice calling capabilities to applications and devices, transition from on-premise to cloud-based communication tools and applications, integrate messaging capabilities into applications or software, build interactive voice response systems for contact centers, and offer end users new mobile application experiences including emergency services and improve employee productivity, among other use cases. We have established a reputation as a leader in the Communications Platform-as-a-Service ("CPaaS") space through our innovation-rich culture and focus on empowering enterprises with end-to-end communications solutions.

We are the only CPaaS provider in the industry that owns and operates a nationwide IP voice network in the United States. In 2020, we acquired Voxbone, a leading European-based communications platform with its own IP voice network assembled by building relationships with local carriers around the globe. Our deep U.S. presence and global platform extending across more than 60 countries serves enterprises in countries representing more than 90% of global gross domestic product. We believe that our current and future customers will benefit from using a unified software platform, network and team to serve people around the world.

Our voice software APIs allow enterprises to make and receive phone calls and create advanced voice experiences. Integration with our purpose-built IP voice network ensures enterprise-grade functionality and secure, high-quality connections. Our messaging software APIs provide enterprises with advanced tools to connect with end users via messaging. Our customers also use our solutions to enable 911 response capabilities, real-time provisioning and activation of phone numbers and toll-free number messaging.

We believe our network is capital-efficient and supports the applications and experiences that make a difference in the way enterprises communicate. Since a communications platform is only as strong as the network that backs it, we believe our network provides a significant competitive advantage in the control, quality, pricing power and scalability of our offering. We are able to control the quality and provide the support our customers expect, while meeting regulatory, scalability and cost requirements more efficiently.

For the years ended December 31, 2019, 2020 and 2021, total revenue was \$232.6 million, \$343.1 million, and \$490.9 million, respectively. For the years ended December 31, 2019, 2020 and 2021, our CPaaS segment revenue was \$197.9 million, \$298.1 million, and \$413.9 million, respectively, representing an increase of 51% in 2020 and 39% in 2021. Net income in 2019 was \$2.5 million, and net loss in 2020 and 2021 was \$44.0 million and \$27.4 million, respectively. As of December 31, 2019, 2020 and 2021, the number of active CPaaS customer accounts was 1,728, 2,848, and 3,228, respectively, representing a year-over-year increase of 40% in 2019, 65% in 2020 and 13% in 2021.



## Management's Discussion and Analysis

### **Acquisition of Voxbone**

On November 2, 2020, we acquired all of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares of Voice Topco Limited ("Voice Topco") through a Share Purchase Agreement (the "Share Purchase Agreement" and such purchase, the "Share Purchase") (the "Acquisition"). Voice Topco directly or indirectly holds all of the issued and outstanding shares of Voxbone S.A., which (with its subsidiaries) is the operating subsidiary of Voice Topco. The Acquisition was valued at €446 million. As consideration for the Share Purchase, we (i) paid the Sellers (as defined in the Share Purchase Agreement) approximately \$400 million (or approximately €338 million based on prevailing exchange rates at the close of business on October 9, 2020) at the Closing (as disclosed in the Share Purchase Agreement) and (ii) issued to the Sellers at the Closing shares of our Class A common stock, with an aggregate value of approximately €108 million (or approximately \$128 million based on prevailing exchange rates at the close of business on October 9, 2020).

### **COVID-19 Update**

The novel coronavirus ("COVID-19") pandemic persisted throughout 2021 and remains an issue today, impacting areas of the United States and the rest of the world to varying degrees. The broader implications of COVID-19 on our results of operations and overall financial performance remain uncertain. The COVID-19 pandemic and its adverse effects have been prevalent in the locations where we, our customers, suppliers and third-party business partners conduct business. During the year ended December 31, 2021, we experienced stable or increased usage by our customers that had been most impacted by COVID-19, including large enterprise customers that offer unified communications as a service ("UCaaS"), meeting solutions, travel, hospitality and ridesharing services, among others. We acknowledge there may be additional impacts to the economy and our business going forward as a result of COVID-19, and we expect there may be some volatility in customer demand and buying habits as the pandemic continues. Our U.S. offices have remained open to employees, subject to applicable government regulations. Appropriate measures are being taken to protect the health of our employees who return to the office. We have also reinstated business travel, subject to applicable government regulations. As the COVID-19 pandemic abates, we may experience curtailed customer demand that could materially adversely impact our business, results of operations and overall financial performance in future periods. Specifically, we may experience impact from enterprises reducing usage of our services or delaying decisions to implement our services. As a result, the effect of the COVID-19 pandemic will not be reflected fully in our results of operations and overall financial performance until future periods. See "Item 1A. Risk Factors" for further discussion of the possible impact of the COVID-19 pandemic on our business.

### **DDoS Attack**

Beginning on September 25, 2021, our communications network was subjected to a distributed denial of service attack (the "DDoS Attack") initially causing intermittent communications services disruptions affecting certain of our markets and customers. A DDoS attack is a malicious attempt to disrupt the normal traffic of a targeted server, service or network by overwhelming the target or its surrounding infrastructure with a flood of unwanted internet traffic from multiple sources, resulting in the slowdown or blockage of legitimate traffic. Our mitigation efforts, in conjunction with our partners from leading cybersecurity firms, have proved successful. Our network has been largely stable and operating at normal service levels since the evening of September 29, 2021, although there have been some continued intermittent disruptions. We estimate that the impact from lost transaction volume and customer credits attributable to the DDoS Attack reduced CPaaS revenue for the full year 2021 by approximately \$10.0 million.

## Management's Discussion and Analysis

### Key Performance Indicators

We monitor the following key performance indicators (“KPIs”) to help us evaluate our business, identify trends affecting our business, formulate business plans, and make strategic decisions. We believe the following KPIs are useful in evaluating our business:

	Year ended December 31,		
	2019	2020	2021
	(Dollars in thousands)		
Number of active CPaaS customers (as of period end)	1,728	2,848	3,228
Dollar-based net retention rate	113 %	131 %	110 %
Adjusted EBITDA <sup>(1)</sup>	\$ (1,050)	\$ 26,176	\$ 49,600
Free cash flow <sup>(1)</sup>	\$ (27,012)	\$ (10,074)	\$ 3,636

<sup>(1)</sup> See “Non-GAAP Financial Measures”, discussed elsewhere in Management’s Discussion and Analysis.

#### ***Number of Active CPaaS Customer Accounts***

We believe the number of active CPaaS customer accounts is an important indicator of the growth of our business, the market acceptance of our platform and our future revenue trends. We define an active CPaaS customer account at the end of any period as an individual account, as identified by a unique account identifier, for which we have recognized at least \$100 of revenue in the last month of the period. We believe usage of our platform by an active CPaaS customer at or above the \$100 per month threshold is a stronger indicator of potential future engagement than trial usage at levels below \$100 per month. A single organization may constitute multiple unique active CPaaS customer accounts if it has multiple unique account identifiers, each of which is treated as a separate active CPaaS customer account. Customers who pay after using our platform and customers that have credit balances are included in the number of active CPaaS customer accounts. Customers from our Other segment are excluded in the number of active CPaaS customer accounts, unless they are also CPaaS customers.

In the years ended December 31, 2019, 2020 and 2021, revenue from active CPaaS customer accounts represented approximately 99% of total CPaaS revenue.

#### ***Dollar-Based Net Retention Rate***

Our ability to drive growth and generate incremental revenue depends, in part, on our ability to maintain and grow our relationships with our existing customers that generate CPaaS revenue and seek to increase their use of our platform. We track our performance in this area by measuring the dollar-based net retention rate for our customers who generate CPaaS revenue. Our dollar-based net retention rate compares the CPaaS revenue from customers in a quarter to the same quarter in the prior year. Customers of acquired businesses are included in the subsequent year’s calendar quarter of acquisition. To calculate the dollar-based net retention rate, we first identify the cohort of customers that generate CPaaS revenue and that were customers in the same quarter of the prior year. The dollar-based net retention rate is obtained by dividing the CPaaS revenue generated from that cohort in a quarter, by the CPaaS revenue generated from that same cohort in the corresponding quarter in the prior year. When we calculate dollar-based net retention rate for periods longer than one quarter, we use the average of the quarterly dollar-based net retention rates for the quarters in such period. Our dollar-based net retention rate increases when such customers increase usage of a product, extend usage of a product to new applications or adopt a new product. Our dollar-based net retention rate decreases when such customers cease or reduce usage of a product or when we lower prices on our solutions.

## Management's Discussion and Analysis

As our customers grow their businesses and increase usage of our platform, they sometimes create multiple customer accounts with us for operational or other reasons. As such, when we identify a significant customer organization (defined as a single customer organization generating more than 1% of CPaaS revenue in a quarterly reporting period) that has created a new CPaaS customer, this new customer is tied to, and CPaaS revenue from this new customer is included with, the original CPaaS customer for the purposes of calculating this metric.

### Key Components of Statements of Operations

#### *Revenue*

We generate a majority of our revenue from our CPaaS segment. CPaaS revenue is derived from reoccurring sources such as per minute voice usage and voice calling, per text message usage and other usage services and fees, and from monthly recurring charges arising from phone number services, 911-enabled phone number services, messaging services and other services.

For the years ended December 31, 2019, 2020 and 2021, we generated 66%, 74% and 72%, respectively of our CPaaS revenue from reoccurring sources. The large bulk of our remaining CPaaS revenue is generated from recurring monthly charges.

The remainder of our revenue not classified in our CPaaS segment is generated by our Other segment. Other segment revenue is composed of revenue earned from various communications services and products, indirect revenue and messaging surcharge revenue.

We recognize accounts receivable at the time the customer is invoiced. Additionally, we record a receivable for unbilled revenue if services have been delivered and are billable in subsequent periods. Unbilled revenue made up 54%, 50% and 52% of outstanding accounts receivable, net of allowance for doubtful accounts, as of December 31, 2019, 2020 and 2021, respectively.

#### *Cost of Revenue and Gross Margin*

CPaaS cost of revenue consists primarily of fees paid to other network service providers from whom we buy services such as minutes of use, phone numbers, messages, porting of customer numbers and network circuits. Cost of revenue also contains costs related to support of our IP voice network, web services, cloud infrastructure, capacity planning and management, rent for network facilities, software licenses, hardware and software maintenance fees and network engineering services. Personnel costs (including non-cash stock-based compensation expenses) associated with personnel who are responsible for the delivery of services, operation and maintenance of our communications network, and customer support, as well as third-party support agreements and depreciation of network equipment, amortization of internally developed software and gain (loss) on disposal of property and equipment are also included in cost of revenue.

Other cost of revenue consists of costs supporting non-CPaaS services including leased circuit costs paid to third party providers, internet connectivity expenses, minutes of use, direct operations, contractors, regulatory fees, surcharges and other pass-through costs and software and hardware maintenance fees.

Gross margin is calculated by subtracting cost of revenue from revenue, divided by total revenue, expressed as a percentage. Our cost of revenue and gross margin have been, and will continue to be, affected by several factors, including the timing and extent of our investments in our network, our ability to manage off-network minutes of use and messaging costs, changes to the mix or amount of personnel-related costs included in our cost of revenue, the product mix of revenue, the timing of amortization of capitalized software development costs and fluctuations in the price we charge our customers for services.

## Management's Discussion and Analysis

### *Operating Expenses*

The most significant components of operating expenses are personnel costs, which consist of salaries, benefits, bonuses, and stock-based compensation expenses. We also incur other non-personnel costs related to our general overhead expenses, including facility expenses, software licenses, web services, depreciation and amortization of assets unrelated to delivery of our services. We expect that our operating expenses will increase in absolute dollars.

#### *Research and Development*

Research and development ("R&D") consists primarily of personnel costs (including non-cash stock-based compensation expenses), outsourced software development and engineering service and cloud infrastructure fees for staging and development of outsourced engineering services. We capitalize the portion of our software development costs in instances where we invest resources to develop software for internal use. We plan to continue to invest in R&D to enhance current product offerings and develop new services.

#### *Sales and Marketing*

Sales and marketing expenses consist primarily of personnel costs, including commissions for our sales employees and non-cash stock-based compensation expenses. Sales and marketing expenses also include expenditures related to advertising, marketing, our brand awareness activities, sales support and professional services fees.

We focus our sales and marketing efforts on creating sales leads and establishing and promoting our brand. We plan to continue to invest in sales and marketing in order to expand our CPaaS customer base by growing headcount, driving our go-to-market strategies, building brand awareness, advertising and sponsoring additional industry marketing events.

#### *General and Administrative*

General and administrative expenses consist primarily of personnel costs, including stock-based compensation, for our accounting, finance, legal, human resources and administrative support personnel, and executives. General and administrative expenses also include costs related to product management and reporting, customer billing and collection functions, information services, professional services fees, credit card processing fees, rent and other facilities costs associated with our headquarters in Raleigh, North Carolina and our other offices, and depreciation and amortization.

#### *Income Taxes*

For the years ended December 31, 2019, 2020 and 2021, our effective tax rate was 116.4%, (51.8)%, and 12.3%, respectively. The increase in our effective tax rate is primarily due to a change in the valuation allowance related to certain deferred tax assets.

Judgment is required in a determination as to whether deferred tax assets will be realized in full or in part. Management assesses available positive and negative evidence on a jurisdictional basis to estimate if deferred tax assets will be recognized, or when it is more likely than not that all or some deferred tax assets will not be realized and a valuation allowance must be established. As of December 31, 2021, the Company continues to maintain a valuation allowance for its U.S. federal and state net deferred tax assets.

## Management's Discussion and Analysis

## Results of Operations

## Consolidated Results of Operations

The following table sets forth the consolidated statements of operations for the periods indicated.

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
<b>Revenue:</b>			
CPaaS revenue	\$ 197,944	\$ 298,090	\$ 413,948
Other revenue	34,650	45,023	76,959
Total revenue	232,594	343,113	490,907
<b>Cost of revenue:</b>			
CPaaS cost of revenue	110,343	160,706	217,403
Other cost of revenue	14,616	24,546	54,981
Total cost of revenue	124,959	185,252	272,384
<b>Gross profit:</b>			
CPaaS	87,601	137,384	196,545
Other	20,034	20,477	21,978
Total gross profit	107,635	157,861	218,523
<b>Operating expenses:</b>			
Research and development	31,461	42,059	55,173
Sales and marketing	35,020	40,552	51,817
General and administrative	58,847	88,755	113,770
Total operating expenses	125,328	171,366	220,760
Operating loss	(17,693)	(13,505)	(2,237)
<b>Other income (expense), net</b>			
Interest income (expense), net	2,446	(13,672)	(28,784)
Other income (expense), net	23	(1,795)	(174)
Total other income (expense), net	2,469	(15,467)	(28,958)
Loss before income taxes	(15,224)	(28,972)	(31,195)
Income tax benefit (provision)	17,718	(15,005)	3,833
Net income (loss)	\$ 2,494	\$ (43,977)	\$ (27,362)

## Management's Discussion and Analysis

The following table sets forth our results of operations as a percentage of our total revenue for the periods presented. \*

	Year ended December 31,		
	2019	2020	2021
<b>Revenue:</b>			
CPaaS revenue	85 %	87 %	84 %
Other revenue	15 %	13 %	16 %
Total revenue	100 %	100 %	100 %
<b>Cost of revenue:</b>			
CPaaS cost of revenue	47 %	47 %	44 %
Other cost of revenue	6 %	7 %	11 %
Total cost of revenue	53 %	54 %	55 %
<b>Gross profit:</b>			
CPaaS	37 %	40 %	40 %
Other	9 %	6 %	3 %
Total gross profit	46 %	46 %	45 %
<b>Operating expenses:</b>			
Research and development	14 %	12 %	11 %
Sales and marketing	15 %	12 %	11 %
General and administrative	24 %	26 %	23 %
Total operating expenses	53 %	50 %	45 %
Operating loss	(8)%	(4)%	— %
<b>Other income (expense), net</b>			
Interest income (expense), net	1 %	(4)%	(6)%
Other income (expense), net	— %	(1)%	— %
Total other income (expense), net	1 %	(5)%	(6)%
Loss before income taxes	(7)%	(8)%	(6)%
Income tax benefit (provision)	8 %	(4)%	1 %
Net income (loss)	1 %	(13)%	(5)%

(\*) Columns may not foot due to rounding.

## Management's Discussion and Analysis

## Comparison of the Years Ended December 31, 2020 and 2021

## Revenue

	Year ended December 31,		Change
	2020	2021	
(Dollars in thousands)			
<b>Revenue:</b>			
CPaaS revenue	\$ 298,090	\$ 413,948	\$ 115,858 39 %
Other revenue	45,023	76,959	31,936 71 %
Total revenue	\$ 343,113	\$ 490,907	\$ 147,794 43 %

In 2021, total revenue increased by \$147.8 million, or 43%, and CPaaS revenue increased by \$115.9 million, or 39%, compared with the same period in 2020. As a percentage of total revenue, CPaaS revenue was 84% in 2021 compared with 87% in 2020.

Revenue earned on our international platform contributed \$81.5 million of this increase to total revenue and \$78.8 million to CPaaS revenue. Excluding the higher amounts attributable to our international platform, revenue from all of our CPaaS offerings increased from the same period in 2020 led by growth in our voice and messaging offerings of \$20.4 million, and phone number services and 911-enabled phone number services of \$16.7 million. We believe our revenue results were lowered by approximately \$10.0 million in 2021 from lost transaction volume and customer credits due to the previously disclosed DDoS Attack. These increases in usage volume period-over-period, including the negative impact of approximately \$10.0 million from lower transaction volume, yielded our dollar-based net retention rate of 110%.

Active CPaaS customer accounts increased 13% to 3,228 as of December 31, 2021, as compared with 2,848 as of December 31, 2020 active accounts as of December 31, 2020.

Other revenue increased by \$31.9 million, or 71%, in 2021 primarily due to higher indirect revenue, which increased by \$30.6 million due to an increase in messaging surcharges and indirect voice revenue, and \$2.7 million due to reoccurring revenue earned from our international platform.

## Cost of Revenue and Gross Margin

	Year ended December 31,		Change
	2020	2021	
(Dollars in thousands)			
<b>Cost of revenue:</b>			
CPaaS cost of revenue	\$ 160,706	\$ 217,403	\$ 56,697 35 %
Other cost of revenue	24,546	54,981	30,435 124 %
Total cost of revenue	\$ 185,252	\$ 272,384	\$ 87,132 47 %
Gross profit	\$ 157,861	\$ 218,523	\$ 60,662 38 %
<b>Gross margin:</b>			
CPaaS	46 %	47 %	
Other	45 %	29 %	
Total gross margin	46 %	45 %	

## Management's Discussion and Analysis

In 2021, total gross profit increased by \$60.7 million, or 38%, compared with the same period in 2020, driven by higher revenue and improved operating leverage offset by unfavorable segment mix, which resulted in total gross margin of 45% for the year ended December 31, 2021 compared with 46% for the year ended December 31, 2020.

As a component of total gross margin, our CPaaS gross margin grew from 46% to 47% for the years ended December 31, 2020 and 2021, respectively. Higher CPaaS gross margins arose from higher revenue, improved operating leverage and product mix. Our higher revenue drove correspondingly higher CPaaS cost of revenue for the year ended December 31, 2021 of \$56.7 million, or 35%, compared with the same period in 2020. CPaaS cost of revenue increased due to an increase in network costs of \$22.8 million due to both network expansions and amortization expense, partially related to our international platform, voice usage costs of \$22.5 million, costs of phone numbers and 911 of \$8.7 million, and cost of messaging of \$2.7 million from increased cost per message and higher messaging sales volumes.

Excluding depreciation, amortization and stock-based compensation of \$20.8 million for the year ended December 31, 2021 and \$11.2 million for the year ended December 31, 2020, CPaaS Non-GAAP gross margins increased to 53%, compared with 50% for the year ended December 31, 2020, and total Non-GAAP gross margins were 49% and 49%, respectively, for the years ended December 31, 2020 and 2021. Higher CPaaS Non-GAAP gross margins were driven by revenue growth, improved operating leverage, improved product mix and the inclusion of higher margin sales from our international platform. See "Non-GAAP Financial Measures", discussed elsewhere in Management's Discussion and Analysis.

In 2021, other cost of revenue increased by \$30.4 million compared with the same period in 2020. This was primarily due to increased indirect revenue and costs related to messaging surcharges, resulting in decreased Other gross margin from 45% to 29%.

### Operating Expenses

	Year ended December 31,		Change	
	2020	2021		
	(Dollars in thousands)			
Research and development	\$ 42,059	\$ 55,173	\$ 13,114	31 %
Sales and marketing	40,552	51,817	11,265	28 %
General and administrative	88,755	113,770	25,015	28 %
Total operating expenses	\$ 171,366	\$ 220,760	\$ 49,394	29 %

As a percentage of revenue, total operating expenses for the years ended December 31, 2020 and 2021 decreased from 50% to 45%, respectively, as revenue growth exceeded corresponding growth in operating expenditures in 2021.

In 2021, R&D expenses increased by \$13.1 million, or 31%, compared with the same period in 2020. This increase was due to increased personnel costs of \$10.0 million including the impact of growth in headcount as a result of the Acquisition, and an increase in non-headcount costs of \$3.1 million.

In 2021, sales and marketing expenses increased by \$11.3 million, or 28%, compared with the same period in 2020, primarily due to an increase in sales personnel costs of \$7.8 million, which included the impact of growth in headcount as a result of the Acquisition, and an increase in non-headcount costs of \$3.5 million.



**Management's Discussion and Analysis**

In 2021, general and administrative expenses increased by \$25.0 million, or 28%, compared with the same period in 2020. This increase was primarily due to higher personnel costs of \$13.9 million resulting from the impact of growth in headcount as a result of the Acquisition, depreciation and amortization costs of \$10.0 million, facilities costs of \$3.2 million, and other costs of \$2.2 million, offset by a decrease in professional costs of \$4.3 million.

**Interest Income (Expense), Net**

In 2021, interest expense, net of interest income, increased by \$15.1 million compared with the same period in 2020, due to a \$12.4 million increase in interest expense related to the Convertible Notes and a \$2.5 million decrease in interest income from the investment of follow-on equity offering proceeds. See Note 9, "Debt" to the consolidated financial statements, for additional details.

**Income Tax Benefit**

In 2021, income tax expense decreased by \$18.8 million compared with the same period in 2020. The effective tax rate for the year ended December 31, 2021, was 12.3% compared with (51.8)% in the same period in 2020. The increase in our effective tax rate is primarily due to a change in the valuation allowance related to certain deferred tax assets.

**Comparison of the Years Ended December 31, 2019 and 2020****Revenue**

	Year ended December 31,		Change	
	2019	2020		
(Dollars in thousands)				
<b>Revenue:</b>				
CPaaS revenue	\$ 197,944	\$ 298,090	\$ 100,146	51 %
Other revenue	34,650	45,023	10,373	30 %
Total revenue	\$ 232,594	\$ 343,113	\$ 110,519	48 %

In 2020, total revenue increased by \$110.5 million, or 48%, compared to the same period in 2019, and CPaaS revenue increased by \$100.1 million, or 51%, compared to the same period in 2019. The increase in CPaaS revenue was primarily attributable to an increase in the usage of all our service offerings, particularly our voice and messaging usage, which accounted for \$58.6 million of the increase in CPaaS revenue. Messaging usage increased in the year due to higher volumes of messages related to political campaigns for the U.S. elections in November. The situation caused by COVID-19 also caused increased usage in the year because of more reliance on our offerings to connect people during a time of physical distancing and work from home environment. Increased usage was mostly driven by large enterprise customers that offer UCaaS services and meeting solutions and our phone number services. Our phone number services and 911-enabled phone number services accounted for \$13.2 million of the increase in CPaaS revenue. In 2020, CPaaS revenue also increased by \$11.8 million from higher usage pricing due to a shift in product mix to products with a higher rate compared to the same period in 2019. In addition, \$16.6 million of growth was attributable to the acquisition of Voxbone for the period from November 1, 2020 through December 31, 2020. The changes in usage and price in 2020 compared to the same period in 2019 were reflected in our dollar-based net retention rate of 131%. In addition, revenue from new CPaaS customers contributed \$22.9 million, or 11%, to CPaaS revenue for 2020 compared to \$11.7 million, or 7%, in the same period in 2019.

The increase in usage was also attributable to a 65% increase in the number of active CPaaS customer accounts, from 1,728 as of December 31, 2019 to 2,848 as of December 31, 2020. As a percentage of total revenue, CPaaS revenue increased from 85% in 2019 to 87% in the same period in 2020.

Other revenue increased by \$10.4 million, or 30%, in 2020 due to higher indirect revenue, which increased by \$12.7 million primarily due to an increase in messaging surcharges and indirect voice revenue, offset by the expected decline of legacy revenue, which decreased by \$2.3 million, compared to the same period in 2019.

## Management's Discussion and Analysis

### Cost of Revenue and Gross Margin

	Year ended December 31,		Change	
	2019	2020		
(Dollars in thousands)				
<b>Cost of revenue:</b>				
CPaaS cost of revenue	\$ 110,343	\$ 160,706	\$ 50,363	46 %
Other cost of revenue	14,616	24,546	9,930	68 %
Total cost of revenue	\$ 124,959	\$ 185,252	\$ 60,293	48 %
Gross profit	\$ 107,635	\$ 157,861	\$ 50,226	47 %
<b>Gross margin:</b>				
CPaaS	44 %	46 %		
Other	58 %	45 %		
Total gross margin	46 %	46 %		

In 2020, total gross profit increased by \$50.2 million, or 47%, compared to the same period in 2019. Total gross margin was 46% for both years. In 2020, CPaaS cost of revenue increased by \$50.4 million, or 46%, compared to the same period in 2019. CPaaS cost of revenue increased due to an increase in voice usage costs of \$25.0 million due to growth in minutes used by customers. Cost of messaging increased by \$10.3 million due to growth in messages used by customers, including an increase related to political campaigns and increased cost per message. Network costs also increased \$13.0 million due to network expansions and depreciation expense. Cost of phone numbers and 911 increased by \$2.1 million. COVID-19 and the increased usage resulting from the work at home environment generated increased voice usage costs and network expansions. CPaaS gross margin increased from 44% in 2019 to 46% in 2020. Excluding depreciation and stock-based compensation of \$6.8 million in 2019 and \$9.7 million in 2020, CPaaS Non-GAAP gross margin was 48% and 50%, respectively, and total Non-GAAP gross margin was 49% for both years.

In 2020, other cost of revenue increased by \$9.9 million compared to the same period in 2019, primarily due to a \$10.8 million increase in cost of indirect revenue related to messaging surcharges offset by a \$0.9 million decrease in costs as a result of the expected churn in legacy services.

### Operating Expenses

	Year ended December 31,		Change	
	2019	2020		
(Dollars in thousands)				
Research and development	\$ 31,461	\$ 42,059	\$ 10,598	34 %
Sales and marketing	35,020	40,552	5,532	16 %
General and administrative	58,847	88,755	29,908	51 %
Total operating expenses	\$ 125,328	\$ 171,366	\$ 46,038	37 %

In 2020, R&D expenses related to the expansion of our product offerings increased by \$10.6 million, or 34%, compared to the same period in 2019. This increase was primarily due to increased personnel costs of \$10.1 million including the impact of growth in headcount as a result of the Acquisition and an increase in non-headcount costs of \$0.5 million.

In 2020, sales and marketing expenses increased by \$5.5 million, or 16%, compared to the same period in 2019, primarily due to an overall increase in sales personnel costs of \$6.6 million including the impact of growth in headcount as a result of the Acquisition offset by a decrease in non-headcount costs of \$1.1 million.

## Management's Discussion and Analysis

In 2020, general and administrative expenses increased by \$29.9 million, or 51%, compared to the same period in 2019. This increase was due to \$12.7 million in costs which consist of mainly fees for financial and legal services, due diligence services and success fees related to the acquisition of Voxbone, higher personnel costs of \$11.9 million due to the impact of growth in headcount as a result of the Acquisition, depreciation and amortization costs of \$3.1 million, facilities costs of \$1.4 million, bank charges and license costs of \$1.1 million, professional costs of \$0.6 million, and expensed IT charges of \$0.6 million, offset by lower other non-headcount costs of \$0.9 million and travel and entertainment expenses of \$0.6 million, which contributed to the overall increase in general and administrative expenses.

As a percentage of revenue, total operating expenses for the years ended December 31, 2018, 2019 and 2020 increased from 43% to 53% and 50%, respectively, as operating expenditures growth exceeded corresponding growth in revenue in 2019 and 2020.

### *Interest Expense, Net*

In 2020, interest expense, net increased by \$16.1 million compared to the same period in 2019, due to a \$0.1 million decrease in interest income from the investment of follow-on equity offering proceeds and a \$16.2 million increase in interest expense related to the Convertible Notes. See Note 9, "Debt" to the consolidated financial statements, for additional details.

### *Income Tax Provision*

In 2020, income tax benefit decreased by \$32.7 million compared to the same period in 2019. The effective tax rate for the twelve months ended December 31, 2020 was (51.8)% compared to 116.4% in the same period in 2019. The decrease in our effective tax rate is primarily due to the change in judgment related to the realizability of certain deferred tax assets and the resulting valuation allowance.

## **Liquidity and Capital Resources**

Our liquidity for the year ended December 31, 2021 was provided by positive free cash flow, derived from our cash flow from operations of \$40.8 million less expenditures for capital equipment. In the last three years, we have also supplemented our liquidity with proceeds from our issuance of the Convertible Notes in February 2020 and March 2021, respectively. We used a majority of the proceeds from the issuance of our 2026 Convertible Notes to consummate the Acquisition. We believe that our cash and cash equivalents balances and the cash flows generated by our operations will be sufficient to satisfy our anticipated cash needs for working capital and capital expenditures for at least the next 12 months. However, our belief may prove to be incorrect, and we could utilize our available financial resources sooner than we currently expect. Our future capital requirements and the adequacy of available funds will depend on many factors, including those set forth in the section titled "Risk Factors." We may be required to seek additional equity or debt financing in order to meet these future capital requirements. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us, or at all. If we are unable to raise additional capital when desired, our business, results of operations and financial condition would be adversely affected.

## Management's Discussion and Analysis

Our principal future commitments consist of (i) an aggregate of \$650.0 million in Convertible Notes (see Note 9, "Debt" to the consolidated financial statements included elsewhere in this Annual Report on Form 10-K, for a discussion of our 2026 Convertible Notes and our 2028 Convertible Notes), (ii) a \$495.7 million non-cancelable lease for our future office headquarters, which is anticipated to commence in May of 2023 (the "Headquarters Lease"), (iii) a \$3.6 million non-cancelable lease for our London office, (iv) \$18.1 million in non-cancelable purchase obligations and future minimum payments under contracts to various service providers, and (v) \$15.8 million in future minimum rent payments for our current office space. The initial base rent for the Headquarters Lease will be \$38.79 per square foot, or approximately \$20.7 million per annum, and will increase by 1.85% on each anniversary of the commencement date. In addition, we are required to deposit an amount equal to the final "Cost of the Work" (as defined in the lease agreement) minus the amount of allowance for certain tenant improvements (the "Excess Costs") with USEF Edwards Mill Owner, LLC and Chicago Title Insurance Company when such amount has been determined. The final calculation of Excess Costs for the Headquarters Lease is expected to be approximately \$12.6 million to occur in March 2022. See Note 13, "Commitments and Contingencies" to the consolidated financial statements included elsewhere in this Annual Report on Form 10-K for future lease commitments.

### Statement of Cash Flows

The following table summarizes our cash flows for the periods indicated:

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Net cash (used in) provided by operating activities	\$ (1,253)	\$ 4,518	\$ 40,803
Net cash (used in) provided by investing activities	(7,653)	(455,085)	2,833
Net cash provided by financing activities	152,418	346,891	207,027
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(9)	109	189
Net increase (decrease) in cash, cash equivalents, and restricted cash	<u>\$ 143,503</u>	<u>\$ (103,567)</u>	<u>\$ 250,852</u>

### Cash Flows from Operating Activities

In 2021, net cash provided by operating activities was \$40.8 million, consisting of net loss of \$27.4 million adjusted for non-cash items of \$76.2 million, and offset by cash used by changes in operating assets and liabilities of \$8.0 million.

Cash used in operating assets and liabilities included an increase in accounts receivable of \$6.7 million, a decrease in operating right-of-use liability of \$6.2 million, and an increase in prepaid expenses and other assets of \$6.8 million. Offsetting these cash use items in assets and liabilities was an increase in accrued expenses and other liabilities of \$9.7 million, and an increase in accounts payable of \$2.0 million.

The non-cash items included depreciation and amortization expense of \$36.7 million, amortization of debt discount and issuance costs of \$26.8 million, stock-based compensation expenses of \$14.5 million, right-of-use asset amortization of \$5.7 million, and loss on disposal of property and equipment of \$0.8 million, offset by a deferred tax benefit of \$8.3 million.

In 2020, net cash provided by operating activities was \$4.5 million, consisting of net loss of \$44.0 million adjusted for non-cash items of \$61.8 million and offset by cash used by changes in operating assets and liabilities of \$13.3 million.

Cash generated in operating assets and liabilities included an increase in accrued expenses and other liabilities of \$14.4 million, and an increase in accounts payable of \$0.3 million. Offsetting these cash generating

## Management's Discussion and Analysis

items in assets and liabilities were an increase in accounts receivable of \$18.8 million, a decrease in operating right-of-use liability of \$5.3 million, and an increase in prepaid expenses and other assets of \$3.8 million.

The non-cash items included depreciation and amortization expense of \$16.8 million, amortization of debt discount and issuance costs of \$15.6 million, deferred tax expense of \$14.3 million, stock-based compensation expenses of \$9.9 million, right-of-use asset amortization of \$4.8 million, and loss on disposal of property and equipment of \$0.3 million.

In 2019, cash used in operating activities was \$1.3 million, consisting of net income of \$2.5 million adjusted for non-cash items. These non-cash items included depreciation and amortization expense of \$9.6 million, stock-based compensation expenses of \$6.6 million, right-of-use asset amortization of \$4.3 million, loss on disposal of property and equipment of \$0.5 million, offset by deferred tax benefit of \$17.5 million, cash used by changes in operating assets and liabilities of \$6.6 million, and accretion of bond discount of \$0.7 million. Cash generated from operating assets and liabilities included an increase in accrued expenses and other liabilities of \$5.5 million, an increase in accounts payable of \$1.1 million, and an increase in deferred revenue and advanced billings of \$0.6 million. Offsetting these cash generating items in assets and liabilities were an increase in accounts receivable of \$6.2 million, an increase in prepaid expenses and other assets of \$4.2 million, and a decrease in operating right-of-use liability of \$3.4 million.

### *Cash Flows from Investing Activities*

In 2021, net cash provided by investing activities was \$2.8 million. Cash provided by investing activities included proceeds from sales and maturities of other investments of \$40.0 million, proceeds from the sale of land of \$17.5 million, offset by the purchase of land of \$30.0 million, purchase of property and equipment of \$20.7 million and capitalized internally developed software costs of \$3.9 million.

In 2020, cash used in investing activities was \$455.1 million mainly from the costs related to the Acquisition of \$400.5 million, net of cash. In addition, cash used in investing activities was the purchase of other investments of \$230.8 million, the purchase of property and equipment of \$12.3 million and capitalized internally developed software costs of \$2.3 million, offset by the proceeds from sales and maturities of other investments of \$190.8 million.

In 2019, cash used in investing activities was \$7.7 million from the proceeds from the sales and maturities of marketable securities of \$86.4 million, offset by the investment in marketable securities of \$68.4 million, the purchase of property and equipment of \$22.2 million and capitalized internally developed software costs of \$3.5 million.

### *Cash Flows from Financing Activities*

In 2021, net cash provided by financing activities was \$207.0 million consisting primarily of \$250.0 million in proceeds from the issuance of the 2028 Convertible Notes and \$0.9 million in proceeds from the issuance of stock options, partially offset by \$25.5 million in the purchase of the 2028 Capped Calls, \$7.5 million in payments of debt issuance cost, \$6.7 million in payment of holdback proceeds to former Voxbone shareholders, \$4.0 million in value of equity awards withheld for tax liabilities, and \$0.2 million in payments on finance leases.

In 2020, cash provided by financing activities was \$346.9 million consisting primarily of \$400.0 million in proceeds from the issuance of the Convertible Notes and \$4.1 million in proceeds from the issuance of stock options, partially offset by \$43.3 million in the purchase of the 2026 Capped Calls, \$12.0 million in payments of debt issuance cost, and \$1.9 million in value of equity awards withheld for tax liabilities.

In 2019, cash provided by financing activities was \$152.4 million consisting primarily of \$147.4 million in proceeds from the follow-on public offering, \$7.4 million in proceeds from the issuance of stock options, partially offset by \$1.4 million in value of equity awards withheld for tax liabilities, \$0.8 million in payments related to the cost of the follow-on public offering and \$0.2 million in payments of debt issuance cost.

## Management's Discussion and Analysis

### *Debt*

On May 25, 2021, we terminated the Credit and Security Agreement, dated as of November 4, 2016, as amended and restated as of March 1, 2019, among the Company, KeyBank National Association, and KeyBanc Capital Markets Inc. (the "Credit Agreement"). The Credit Agreement provided for a secured \$25.0 million revolving credit facility. As of May 25, 2021, no borrowings were outstanding under the Credit Agreement. As of December 31, 2021, we had no outstanding unamortized loan fees for the Credit Agreement.

On March 16, 2021, we issued \$250.0 million aggregate principal amount of the 2028 Convertible Notes in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act. The interest on the 2028 Convertible Notes is payable semi-annually in arrears on April 1 and October 1 of each year, beginning on October 1, 2021. The 2028 Convertible Notes may bear special interest under specified circumstances relating to our failure to comply with our reporting obligations under the indenture governing the 2028 Convertible Notes (the "2028 Indenture") or if the 2028 Convertible Notes are not freely tradeable as required by the 2028 Indenture. The 2028 Convertible Notes will mature on April 1, 2028, unless earlier repurchased, redeemed by us, or converted pursuant to their terms. The total net proceeds from the 2028 Convertible Notes, after deducting initial purchaser discounts, costs related to the 2028 Capped Calls, and debt issuance costs, paid or payable by us, were approximately \$217.0 million.

On February 28, 2020, we issued \$400.0 million aggregate principal amount of the Convertible Notes in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act, including \$50.0 million aggregate principal amount of such Convertible Notes pursuant to the exercise in full of the initial purchasers' over-allotment option. The interest on the Convertible Notes is payable semi-annually in arrears on March 1 and September 1 of each year, beginning on September 1, 2020. The 2026 Convertible Notes may bear special interest under specified circumstances relating to our failure to comply with our reporting obligations under the indenture governing the 2026 Convertible Notes (the "2026 Indenture") or if the 2026 Convertible Notes are not freely tradeable as required by the 2026 Indenture. The 2026 Convertible Notes will mature on March 1, 2026, unless earlier repurchased, redeemed by us, or converted pursuant to their terms. The total net proceeds from the Convertible Notes, after deducting initial purchaser discounts, costs related to the Capped Calls, and debt issuance costs, paid or payable by us, were approximately \$344.7 million.

### **Non-GAAP Financial Measures**

We use Non-GAAP gross profit, Non-GAAP gross margin, Non-GAAP net (loss) income, Adjusted EBITDA and free cash flow for financial and operational decision making and to evaluate period-to-period differences in our performance. Non-GAAP gross profit, Non-GAAP gross margin, Non-GAAP net (loss) income, Adjusted EBITDA and free cash flow are non-GAAP financial measures, which we believe are useful for investors in evaluating our overall financial performance. We believe these measures provide useful information about operating results, enhance the overall understanding of past financial performance and future prospects and allow for greater transparency with respect to key performance indicators used by management in its financial and operational decision making. See below for a reconciliation of each of the non-GAAP financial measures described below.

#### ***Non-GAAP Gross Profit and Non-GAAP Gross Margin***

GAAP defines gross profit as revenue less cost of revenue. Cost of revenue includes all expenses associated with our various service offerings as more fully described under the caption "Key Components of Statements of Operations-Cost of Revenue and Gross Margin." We define Non-GAAP gross profit as gross profit after adding back the following items:

- depreciation and amortization;
- amortization of acquired intangible assets related to acquisitions; and

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- stock-based compensation.

We calculate Non-GAAP gross margin by dividing Non-GAAP gross profit by revenue, expressed as a percentage of revenue.

In our calculation of Non-GAAP gross profit and Non-GAAP gross margin, we eliminate the impact of depreciation and amortization, amortization of acquired intangible assets related to acquisitions, and stock-based compensation, all non-cash items, because we do not consider them indicative of our core operating performance. The exclusion of these items facilitates comparisons of our operating performance on a period-to-period basis. Management uses Non-GAAP gross profit and Non-GAAP gross margin to evaluate operating performance and to determine resource allocation among our various service offerings. We believe Non-GAAP gross profit and Non-GAAP gross margin provide useful information to investors and others to understand and evaluate our operating results in the same manner as our management and board of directors and allows for better comparison of financial results among our competitors. Non-GAAP gross profit and Non-GAAP gross margin may not be comparable to similarly titled measures of other companies because other companies may not calculate Non-GAAP gross profit and Non-GAAP gross margin or similarly titled measures in the same manner we do.

### Consolidated

	Year ended December 31,					
	2019		2020		2021	
	(In thousands)					
<b>Consolidated Gross Profit</b>	\$	107,635	\$	157,861	\$	218,523
<b>Consolidated Gross Profit Margin %</b>		46 %		46 %		45 %
Depreciation		6,583		9,536		12,051
Amortization of acquired intangible assets		—		1,445		8,543
Stock-based compensation		211		208		252
<b>Non-GAAP Gross Profit</b>	<b>\$</b>	<b>114,429</b>	<b>\$</b>	<b>169,050</b>	<b>\$</b>	<b>239,369</b>
<b>Non-GAAP Gross Margin %</b>		<b>49 %</b>		<b>49 %</b>		<b>49 %</b>

### By Segment

#### CPaaS

	Year ended December 31,					
	2019		2020		2021	
	(In thousands)					
<b>CPaaS Gross Profit</b>	\$	87,601	\$	137,384	\$	196,545
<b>CPaaS Gross Profit Margin %</b>		44 %		46 %		47 %
Depreciation		6,583		9,536		12,051
Amortization of acquired intangible assets		—		1,445		8,543
Stock-based compensation		211		208		252
<b>Non-GAAP CPaaS Gross Profit</b>	<b>\$</b>	<b>94,395</b>	<b>\$</b>	<b>148,573</b>	<b>\$</b>	<b>217,391</b>
<b>Non-GAAP CPaaS Gross Margin %</b>		<b>48 %</b>		<b>50 %</b>		<b>53 %</b>

#### Other

There are no Non-GAAP adjustments to gross profit for the Other segment.

## Management's Discussion and Analysis

### *Non-GAAP Net (Loss) Income*

We define Non-GAAP net (loss) income as net income or loss adjusted for certain items affecting period-to-period comparability. Non-GAAP net (loss) income excludes:

- stock-based compensation;
- amortization of acquired intangible assets related to acquisitions;
- amortization of debt discount and issuance costs for convertible debt;
- acquisition related expenses;
- impairment charges of intangibles assets, if any;
- loss (gain) on disposal of property and equipment;
- net cost associated with early lease terminations and leases without economic benefit
- estimated tax impact of above adjustments;
- income tax benefit resulting from excess tax benefits associated with the exercise of stock options, vesting of restricted stock units and equity compensation; and
- expense resulting from recording the valuation allowance on our deferred tax assets.

We calculate Non-GAAP basic and diluted shares by adding the weighted average of outstanding Series A redeemable convertible preferred stock, if any, to the weighted average number of outstanding basic and diluted shares, respectively. The tax-effect of Non-GAAP adjustments is determined using a blended rate of statutory tax rates in the jurisdictions where we have tax filings. When we have a valuation allowance recorded and no tax benefits will be recognized, the rate is considered to be zero.

We believe Non-GAAP net (loss) income is a meaningful measure because by removing certain non-cash and other expenses, we are able to evaluate our operating results in a manner we believe is more indicative of the current period's performance. We believe the use of Non-GAAP net (loss) income may be helpful to investors because it provides consistency and comparability with past financial performance, facilitates period-to-period comparisons of results of operations and assists in comparisons with other companies, many of which may use similar Non-GAAP financial information to supplement their GAAP results.



## Management's Discussion and Analysis

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
<b>Net income (loss)</b>	\$ 2,494	\$ (43,977)	\$ (27,362)
Stock-based compensation	6,626	9,881	14,537
Amortization of acquired intangibles	520	3,666	19,119
Amortization of debt discount and issuance costs for convertible debt	—	15,565	26,672
Acquisition-related expenses	—	14,458	—
Loss on disposal of property and equipment	456	334	832
Estimated tax effects of adjustments <sup>(1)</sup>	(1,914)	(758)	(15,036)
Valuation allowance <sup>(2)</sup>	—	15,024	9,552
Income tax benefit of equity compensation	(13,484)	—	(2,603)
<b>Non-GAAP net (loss) income</b>	<b>\$ (5,302)</b>	<b>\$ 14,193</b>	<b>\$ 25,711</b>
<b>Net income (loss) per share, basic and diluted</b>			
Basic	\$ 0.11	\$ (1.83)	\$ (1.09)
Diluted	\$ 0.10	\$ (1.83)	\$ (1.09)
<b>Non-GAAP net (loss) income per Non-GAAP share</b>			
Basic	\$ (0.23)	\$ 0.59	\$ 1.02
Diluted	\$ (0.23)	\$ 0.55	\$ 0.97
<i>Non-GAAP weighted average number of shares outstanding</i>			
<b>Non-GAAP basic shares</b>	<b>22,640,461</b>	<b>24,092,574</b>	<b>25,090,916</b>
Convertible debt conversion	—	1,022,941	987,149
Stock options issued and outstanding	—	443,738	180,318
Nonvested RSUs outstanding	—	352,854	197,538
<b>Non-GAAP diluted shares</b>	<b>22,640,461</b>	<b>25,912,107</b>	<b>26,455,921</b>

<sup>(1)</sup> The Non-GAAP tax-effect adjustments are calculated based on statutory tax rates in the jurisdictions where we have tax filings. When we have a valuation allowance recorded and no tax benefits will be recognized, the rate in that jurisdiction is considered to be zero. The rate was 25.2%, 1.8%, 13.2% for the years ended December 31, 2019, 2020 and 2021, respectively.

<sup>(2)</sup> The Company recognized a tax expense of \$0.0 million, \$15.0 million, and \$9.6 million to record a valuation allowance on U.S. deferred tax assets in the years ended December 31, 2019, 2020 and 2021, respectively.

### Adjusted EBITDA

We define Adjusted EBITDA as net income or losses from continuing operations, adjusted to reflect the addition or elimination of certain income statement items including, but not limited to:

- income tax provision (benefit);
- interest (income) expense, net;
- depreciation and amortization expense;
- acquisition related expenses;

## Management's Discussion and Analysis

- stock-based compensation expense;
- impairment of intangible assets, if any;
- loss (gain) on disposal of property and equipment, if any; and
- net cost associated with early lease terminations and leases without economic benefit

Adjusted EBITDA is a key measure used by management to understand and evaluate our core operating performance and trends, to generate future operating plans and to make strategic decisions regarding the allocation of capital. In particular, the exclusion of certain expenses in calculating Adjusted EBITDA facilitates comparisons of our operating performance on a period-to-period basis.

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
<b>Net income (loss)</b>	\$ 2,494	\$ (43,977)	\$ (27,362)
Income tax (benefit) provision <sup>(1)</sup>	(17,718)	15,005	(3,833)
Interest (income) expense, net	(2,446)	13,672	28,784
Depreciation	9,018	13,137	17,523
Amortization	520	3,666	19,119
Acquisition-related expenses	—	14,458	—
Stock-based compensation	6,626	9,881	14,537
Loss on disposal of property and equipment	456	334	832
<b>Adjusted EBITDA</b>	<b>\$ (1,050)</b>	<b>\$ 26,176</b>	<b>\$ 49,600</b>

<sup>(1)</sup> Includes \$0.0 million, \$15.0 million, and \$9.6 million of tax expense to record a valuation allowance on U.S. deferred tax assets for the years ended December 31, 2019, 2020 and 2021, respectively.

### Free Cash Flow

Free cash flow represents net cash provided by or used in operating activities less net cash used in the acquisition of property and equipment and capitalized development costs of software for internal use. We believe free cash flow is a useful indicator of liquidity and provides information to management and investors about the amount of cash generated from our core operations that can be used to invest in our business. Free cash flow has certain limitations because it does not represent the total increase or decrease in the cash balance for the period, it does not take into consideration investment in long-term securities, nor does it represent residual cash flows available for discretionary expenditures. Therefore, it is important to evaluate free cash flow along with our consolidated statements of cash flows.

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Net cash (used in) provided by operating activities	\$ (1,253)	\$ 4,518	\$ 40,803
Net cash used in investing in capital assets <sup>(1) (2)</sup>	(25,759)	(14,592)	(37,167)
<b>Free cash flow</b>	<b>\$ (27,012)</b>	<b>\$ (10,074)</b>	<b>\$ 3,636</b>

<sup>(1)</sup> Represents the acquisition cost of property, equipment and capitalized development costs for software for internal use.

## Management's Discussion and Analysis

<sup>(2)</sup> Includes the net cash used from the purchase of land of \$(30.0) million offset by the proceeds from sale of land of \$17.5 million from investing activities of the consolidated statement of cash flows for the year ended December 31, 2021.

### Critical Accounting Policies and Significant Judgments and Estimates

Our consolidated financial statements are prepared in accordance with GAAP. The preparation of these financial statements requires our management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs, and expenses and related disclosures. Our estimates are based on our 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. Actual results may differ from these judgments and estimates under different assumptions or conditions, and any such differences may be material.

We believe the accounting policies discussed below are critical to the process of making significant judgments and estimates in the preparation of our financial statements, and to understanding our historical and future performance.

#### ***Revenue Recognition and Deferred Revenue***

We generate revenue primarily from the sale of communications services to enterprise customers. Revenue recognition commences upon transfer of control of promised goods or services to customers in an amount that we expect to receive in exchange for those goods or services.

The majority of our revenue is generated from usage-based fees earned from customers accessing our communications platform. Access to the communications platform is considered a series of distinct services, with continuous transfer of control to the customer, comprising one performance obligation. Usage-based fees are recognized in revenue in the period the traffic traverses our network.

Revenue from service-based fees, such as the provision and management of phone numbers and emergency services access, is recognized on a ratable basis as the service is provided, which is typically one month.

We enter into arrangements with customers that are typically 2 to 3 years in length with an auto-renewal feature. When required as part of providing service, revenues and associated expenses related to nonrefundable, upfront service activation and setup fees are deferred and recognized over the longer of the associated service contract period or estimated period of benefit.

Our arrangements do not contain general rights of return or provide customers with the right to take possession of the software supporting the applications. Amounts that have been invoiced are recorded in accounts receivable and in revenue or deferred revenue depending on whether the revenue recognition criteria have been met.

We maintain a reserve for sales credits. Credits are accounted for as variable consideration and are estimated based on several inputs including historical experience, contractual obligations and current trends of credit issuances. Adjustments to the reserve are recorded against revenue.

#### ***Business Combinations***

We use the acquisition method of accounting for business combinations which requires the tangible and intangible assets acquired and liabilities assumed to be recorded at their respective fair market value as of the acquisition date. Goodwill represents the excess of the consideration transferred over the fair value of the net assets acquired. The fair values of the assets acquired and liabilities assumed are determined based upon management's valuation and involves making significant estimates and assumptions based on facts and circumstances that existed as of the acquisition date. We use a measurement period following the acquisition date to gather information that existed as of the acquisition date that is needed to determine the fair value of the assets acquired and liabilities

## Management's Discussion and Analysis

assumed. The measurement period ends once all information is obtained, but no later than one year from the acquisition date.

### ***Goodwill and Intangible Assets***

#### *Goodwill*

Goodwill represents the excess of the aggregate fair value of consideration transferred in a business combination, over the fair value of assets acquired, net of liabilities assumed. Goodwill is not amortized, but is subject to an annual impairment test. We test goodwill for impairment annually on December 31 of each calendar year or more frequently if events or changes in business circumstances indicate the asset might be impaired. Goodwill is tested for impairment at the reporting unit level. In evaluating the recoverability of goodwill, we perform a qualitative analysis to determine whether events and circumstances exist that indicate that it is more likely than not that goodwill is impaired. The qualitative factors we consider include but are not limited to, macroeconomic conditions, industry and market conditions, company-specific events and changes in circumstances. We completed our annual goodwill impairment analysis in each of the years ended December 31, 2019, 2020 and 2021 and no impairment charges were recorded. As of December 31, 2021 goodwill was \$344.4 million which has been assigned to the CPaaS segment.

#### *Long-Lived Assets*

Long-lived assets, including intangible assets with definite lives, are amortized over their estimated useful lives and are reviewed for impairment if indicators of impairment arise.

We evaluate the recoverability of our long-lived assets for impairment whenever events or circumstances indicate that the carrying amount of the assets may not be recoverable. Recoverability of long-lived assets are measured by comparison of the carrying amount of the asset to the future undiscounted cash flows the asset is expected to generate. If the asset is considered to be impaired, the amount of any impairment is measured as the difference between the carrying value and the fair value of the impaired asset. As of December 31, 2021, intangible assets, net of accumulated amortization, were \$211.2 million, which consists primarily of client relationships, client contracts and developed technology. No indicators of impairment were identified for the years ended December 31, 2019, 2020 and 2021.

#### ***Internal-Use Software Development Costs***

Internal-use software includes software that has been acquired, internally developed, or modified exclusively to meet the Company's needs. We capitalize qualifying internal-use software development costs that are incurred during the application development stage. Capitalization of costs begins when two criteria are met: (i) the preliminary project stage is completed and (ii) it is probable that the software will be completed and used for its intended function. Capitalization ceases when the software is substantially complete and ready for its intended use, including the completion of all significant testing. We also capitalize costs related to specific upgrades and enhancements when it is probable the expenditures will result in additional functionality and expense costs incurred for maintenance and minor upgrades and enhancements. Costs related to preliminary project activities and post-implementation operating activities are expensed as incurred. As of December 31, 2021, software development costs, net of accumulated amortization, were \$7.5 million.

Capitalized costs of platform and other software applications are included in property and equipment. These costs are amortized over the estimated useful life of the software on a straight-line basis over three years, which is recorded in cost of revenue in the statement of operations. We evaluate the useful life of these assets on an annual basis and test for impairment whenever events or changes in circumstances occur that could impact the recoverability of these assets.

#### ***Income Taxes***

## Management's Discussion and Analysis

We account for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that are included in the financial statements. Under this method, deferred tax assets and liabilities are determined based on the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We reduce the measurement of a deferred tax asset, if necessary, by a valuation allowance if it is more likely than not that we will not realize some or all the deferred tax asset. Quarterly, we review the deferred tax assets for recoverability based on historical taxable income, projected future taxable income, the expected timing of the reversals of existing temporary differences, the implementation of prudent and feasible tax planning strategies, and results of recent operations. The evaluation of the recoverability of deferred tax assets requires judgment in assessing future profitability. Should there be a change in the ability to recover deferred tax assets, our income tax provision would increase or decrease in the period in which the assessment is changed.

We account for uncertain tax positions by recognizing the financial statement effects of a tax position only when, based upon technical merits, it is more likely than not that the position will be sustained upon examination. The tax benefit recognized is measured as the largest amount of benefit determined on a cumulative probability basis that we believe is more likely than not to be realized upon ultimate settlement of the position. We recognize potential accrued interest and penalties associated with unrecognized tax positions in income tax expense.

### ***Other Contingencies***

We are subject to legal proceedings and litigation arising in the ordinary course of business. Periodically, we evaluate the status of each legal matter and assess our potential financial exposure. If the potential loss from any legal proceeding or litigation is considered probable and the amount can be reasonably estimated, we accrue a liability for the estimated loss. Significant judgment is involved in the determination of the probability of a loss and whether the amount of the loss is reasonably estimable. The outcome of any proceeding is not determinable in advance. As a result, the assessment of a potential liability and the amount of any accruals recorded are based only on the information available to us at the time. As additional information becomes available, we reassess the potential liability related to the legal proceeding or litigation, and may revise our estimates. Any revisions could have a material effect on our results of operations.

We conduct operations in many tax jurisdictions throughout the United States and globally. In many of these jurisdictions, non-income-based taxes and fees, such as sales and use taxes, Value Added Taxes ("VAT"), telecommunications taxes, and regulatory fees including those associated with (or potentially associated with) VoIP telephony services or 911 services, are assessed or may be assessed on our operations. We are subject to indirect taxes, and may be subject to certain other taxes and surcharges in some of these jurisdictions. We generally bill and collect from our customers these taxes and surcharges. We record a liability for tax collected from customers but not yet paid to the appropriate jurisdiction. In addition, we record a provision for non-income based taxes and fees in jurisdictions where it is both probable that liability has been incurred and the amount of the exposure can be reasonably estimated. As a result, we have recorded a liability of \$5.4 million, \$9.1 million and \$11.0 million as of December 31, 2019, 2020 and 2021, respectively, included in accrued expenses and other current liabilities. These estimates are based on several key assumptions, including the taxability of our services, the jurisdictions in which we believe we have nexus and the sourcing of revenue to those jurisdictions. In the event these jurisdictions challenge our assumptions and analysis, our actual exposure could differ materially from our current estimates.

**Recently Issued Accounting Guidance**

See Note 2, “Summary of Significant Accounting Policies” to the consolidated financial statements included elsewhere in this Annual Report on Form 10-K, for a summary of recently adopted accounting standards and recent accounting pronouncements not yet adopted.

## **Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to certain market risks in the ordinary course of our business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily the result of fluctuations in interest rates and, to a lesser extent, foreign currency rates and inflation.

### ***Interest Rate Risk***

Our primary exposure to market risk relates to interest rate changes. We had cash and cash equivalents of \$331.5 million as of December 31, 2021, which were held for working capital purposes. Our cash and cash equivalents are comprised primarily of interest bearing checking and direct deposit accounts, and money market accounts.

Such interest-earning instruments carry a degree of interest rate risk. To date, fluctuations in interest income have not been significant. The primary objective of our investment activities is to preserve principal while maximizing income without significantly increasing risk. We do not enter into investments for trading or speculative purposes and have not used any derivative financial instruments to manage our interest rate risk exposure. Due to the short-term nature of our investments, we have not been exposed to, nor do we anticipate being exposed to, material risks due to changes in interest rates.

In February 2020 and March 2021, we issued \$400.0 million and \$250.0 million aggregate principal amount of the 2026 Convertible Notes and the 2028 Convertible Notes, respectively. As the Convertible Notes have a fixed annual interest rate, we have no financial or economic interest exposure associated with changes in interest rates. However, the fair value of fixed rate debt instruments fluctuates when interest rates change. Additionally, the fair value can be affected when the market price of our common stock fluctuates. We carry the Convertible Notes at face value less unamortized discount on our balance sheet, and we present the fair value for required disclosure purposes only.

### ***Foreign Currency Risk***

The functional currencies of our foreign subsidiaries are the respective local currencies of the jurisdictions in which they operate, which are primarily the Euro and the British Pound. Approximately 12% of our total revenue for the year ended December 31, 2021 was generated outside the United States. The majority of our revenues and operating expenses are denominated in U.S. dollars, and therefore are not currently subject to significant foreign currency risk. Our subsidiaries remeasure monetary assets and liabilities at period-end exchange rates, while non-monetary items are remeasured at historical rates. Revenue and expense accounts are remeasured at the average exchange rate in effect during the year. If there is a change in foreign currency exchange rates, the conversion of our foreign subsidiaries' financial statements into U.S. dollars would result in a realized gain or loss, which is recorded in other expense, net in our consolidated statements of operations. We do not currently engage in any hedging activity to reduce our potential exposure to currency fluctuations, although we may choose to do so in the future. To the extent the U.S. dollar weakens against foreign currencies, the translation of these foreign currencies result in increased revenue and operating expenses for our non-U.S. operations. Similarly, our revenue and operating expenses for our non-U.S. operations decrease if the U.S. dollar strengthens against foreign currencies.

### ***Inflation***

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

**Item 8. Financial Statements and Supplementary Data**

**BANDWIDTH INC.**

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## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Bandwidth Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Bandwidth Inc. (the Company) as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income (loss), changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 25, 2022 expressed an unqualified opinion thereon.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosure to which it relates.

**Revenue Recognition**

*Description of the Matter*

As discussed in Note 2, the Company recognizes revenue from the sale of communications services offered through software solutions, which are generally derived from usage and monthly service fees from both the CPaaS and Other segments. Usage revenue includes voice communication (primarily driven by inbound minutes, outbound minutes and toll-free minutes) and messaging communication (driven by the number of messages) that traverse the platform and network. Revenue for these services is recognized in the period the usage occurs. Monthly service fees include the provisioning and management of phone numbers and emergency services access, which are recognized based on the quantity of phone numbers in service and the quantity of phone numbers with emergency services access during the month, respectively.

The processing and recording of revenue from voice and messaging data usage is highly automated and involves capturing and pricing significant volumes of data across multiple systems. Similarly, the provisioning and management of phone numbers and emergency services access is also highly automated and involves capturing and pricing the quantity of phone numbers in service and the quantity of phone numbers with emergency services access during the month. Given the complex automated systems utilized to capture, process, and ultimately record revenue, performing procedures to audit revenue required a high degree of auditor judgment and extensive audit effort.

*How We Addressed the Matter in Our Audit*

We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls that address the risks of material misstatement relating to the measurement and occurrence of revenue. This included involvement of audit professionals with significant experience in the use of information technology (IT) to support business operations and related controls. With the involvement of our IT professionals, we identified the significant systems used to capture and process voice usage, phone number services, emergency services access, and messaging services, and tested the IT general controls over those systems, including testing of user access and change management controls. In addition, our audit procedures included testing of other manual reconciliation controls designed to determine the accuracy and completeness of data processed and transferred across multiple platforms in connection with the recognition of revenue for voice and messaging usage, the quantity of phone numbers in service, and the quantity of phone numbers with emergency services access during the period.

To test the Company's revenue, our audit procedures included, among other procedures, performing data analytics by extracting data from the Company's systems to evaluate the completeness and accuracy of recorded revenues, testing a sample of revenue transactions, which included evaluating the transaction price based on inspection of customer contracts and approved rate tables, as well as testing the mathematical accuracy of the recorded revenue based on the voice and messaging usage, as well as the quantity of phone numbers in service and quantity of phone numbers with emergency services access during the period.

We have served as the Company's auditor since 2012.

/s/ Ernst & Young LLP

Raleigh, North Carolina  
February 25, 2022

## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Bandwidth Inc.

### Opinion on Internal Control Over Financial Reporting

We have audited Bandwidth Inc.'s internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Bandwidth Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income (loss), changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes and our report dated February 25, 2022 expressed an unqualified opinion thereon.

### Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

Raleigh, North Carolina  
February 25, 2022

**BANDWIDTH INC.**  
**Consolidated Balance Sheets**  
(In thousands, except share and per share amounts)

	As of December 31,	
	2020	2021
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 72,163	\$ 331,453
Restricted cash	9,274	836
Other investments	40,000	—
Accounts receivable, net of allowance for doubtful accounts	55,243	61,572
Deferred costs	2,411	3,204
Prepaid expenses and other current assets	14,508	15,820
<b>Total current assets</b>	<b>193,599</b>	<b>412,885</b>
Property, plant and equipment, net	51,645	69,604
Operating right-of-use asset, net	19,491	14,061
Intangible assets, net	248,055	211,217
Deferred costs, non-current	3,604	4,676
Other long-term assets	1,975	8,673
Goodwill	372,239	344,423
<b>Total assets</b>	<b>\$ 890,608</b>	<b>\$ 1,065,539</b>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 11,665	\$ 9,142
Accrued expenses and other current liabilities	63,065	65,921
Current portion of deferred revenue	6,515	6,248
Advanced billings	5,429	6,380
Operating lease liability, current	5,515	5,807
<b>Total current liabilities</b>	<b>92,189</b>	<b>93,498</b>
Other liabilities	1,707	6,018
Operating lease liability, net of current portion	17,202	10,958
Deferred revenue, net of current portion	6,386	7,634
Deferred tax liability	61,005	48,396
Convertible senior notes	282,196	486,440
<b>Total liabilities</b>	<b>460,685</b>	<b>652,944</b>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock; \$0.001 par value; 10,000,000 shares authorized; 0 shares issued	—	—
Class A voting common stock; \$0.001 par value; 100,000,000 shares authorized as of December 31, 2020 and 2021; 22,413,004 and 23,177,988 shares issued and outstanding as of December 31, 2020 and 2021, respectively	22	23
Class B voting common stock, \$0.001 par value; 20,000,000 shares authorized as of December 31, 2020 and 2021; 2,496,125 and 1,965,170 shares issued and outstanding as of December 31, 2020 and 2021, respectively	2	2
Additional paid-in capital	451,463	502,477
Accumulated deficit	(49,505)	(76,867)
Accumulated other comprehensive income (loss)	27,941	(13,040)
<b>Total stockholders' equity</b>	<b>429,923</b>	<b>412,595</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 890,608</b>	<b>\$ 1,065,539</b>

See accompanying notes.

**BANDWIDTH INC.**  
**Consolidated Statements of Operations**  
(In thousands, except share and per share amounts)

	Year ended December 31,		
	2019	2020	2021
Revenue:			
CPaaS revenue	\$ 197,944	\$ 298,090	\$ 413,948
Other revenue	34,650	45,023	76,959
<b>Total revenue</b>	<b>232,594</b>	<b>343,113</b>	<b>490,907</b>
Cost of revenue:			
CPaaS cost of revenue	110,343	160,706	217,403
Other cost of revenue	14,616	24,546	54,981
<b>Total cost of revenue</b>	<b>124,959</b>	<b>185,252</b>	<b>272,384</b>
<b>Gross profit</b>	<b>107,635</b>	<b>157,861</b>	<b>218,523</b>
Operating expenses:			
Research and development	31,461	42,059	55,173
Sales and marketing	35,020	40,552	51,817
General and administrative	58,847	88,755	113,770
<b>Total operating expenses</b>	<b>125,328</b>	<b>171,366</b>	<b>220,760</b>
<b>Operating loss</b>	<b>(17,693)</b>	<b>(13,505)</b>	<b>(2,237)</b>
Other income (expense), net:			
Interest income (expense), net	2,446	(13,672)	(28,784)
Other income (expense), net	23	(1,795)	(174)
<b>Total other income (expense), net</b>	<b>2,469</b>	<b>(15,467)</b>	<b>(28,958)</b>
<b>Loss before income taxes</b>	<b>(15,224)</b>	<b>(28,972)</b>	<b>(31,195)</b>
<b>Income tax benefit (provision)</b>	<b>17,718</b>	<b>(15,005)</b>	<b>3,833</b>
<b>Net income (loss)</b>	<b>\$ 2,494</b>	<b>\$ (43,977)</b>	<b>\$ (27,362)</b>
Earnings per share:			
Net income (loss) per share:			
Basic	\$ 0.11	\$ (1.83)	\$ (1.09)
Diluted	\$ 0.10	\$ (1.83)	\$ (1.09)
Weighted average number of common shares outstanding:			
Basic	22,640,461	24,092,574	25,090,916
Diluted	23,923,777	24,092,574	25,090,916

See accompanying notes.

**BANDWIDTH INC.**  
**Consolidated Statements of Comprehensive Income (Loss)**  
(In thousands)

	Year ended December 31,		
	2019	2020	2021
Net income (loss)	\$ 2,494	\$ (43,977)	\$ (27,362)
Other comprehensive income (loss)			
Unrealized gain on marketable securities, net	1	—	—
Foreign currency translation, net of income taxes	41	27,900	(41,150)
Unrealized gain on employee benefit plan, net of income taxes	—	—	169
Total other comprehensive income (loss)	42	27,900	(40,981)
Total comprehensive income (loss)	\$ 2,536	\$ (16,077)	\$ (68,343)

*See accompanying notes.*

**BANDWIDTH INC.**  
**Consolidated Statements of Changes in Stockholders' Equity**  
(In thousands, except share amounts)

	Class A voting common stock		Class B voting common stock		Additional paid-in capital	Accumulated other comprehensive (loss) income	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
<b>Balance at December 31, 2018</b>	<b>12,912,747</b>	<b>\$ 13</b>	<b>6,510,732</b>	<b>\$ 6</b>	<b>\$ 116,600</b>	<b>\$ (1)</b>	<b>\$ (7,848)</b>	<b>\$ 108,770</b>
Issuance of common stock in connection with follow on public offering, net of underwriting discounts	2,875,000	3	—	—	147,388	—	—	147,391
Costs in connection with public offering	—	—	—	—	(834)	—	—	(834)
Exercises of vested stock options	1,075,482	1	—	—	7,356	—	—	7,357
Vesting of restricted stock units	163,944	—	—	—	—	—	—	—
Equity awards withheld for tax liability	(26,026)	—	—	—	(1,583)	—	—	(1,583)
Conversion of Class B voting common stock to Class A voting common stock	1,583,331	2	(1,583,331)	(1)	—	—	—	1
Adjustment to opening retained earnings due to adoption of ASC 606	—	—	—	—	—	—	(174)	(174)
Unrealized gain on marketable securities	—	—	—	—	—	1	—	1
Foreign currency translation	—	—	—	—	—	41	—	41
Stock based compensation	—	—	—	—	6,626	—	—	6,626
Net income	—	—	—	—	—	—	2,494	2,494
<b>Balance at December 31, 2019</b>	<b>18,584,478</b>	<b>19</b>	<b>4,927,401</b>	<b>5</b>	<b>275,553</b>	<b>41</b>	<b>(5,528)</b>	<b>270,090</b>
Issuance of debt conversion option	—	—	—	—	104,553	—	—	104,553
Debt conversion option issuance costs, net of tax	—	—	—	—	(3,742)	—	—	(3,742)
Capped call option purchase price	—	—	—	—	(43,320)	—	—	(43,320)
Exercises of vested stock options	593,084	1	—	—	4,075	—	—	4,076
Vesting of restricted stock units	161,067	—	—	—	—	—	—	—
Equity awards withheld for tax liability	(20,295)	—	—	—	(1,916)	—	—	(1,916)
Conversion of Class B voting common stock to Class A voting common stock	2,431,276	1	(2,431,276)	(3)	—	—	—	(2)
Equity consideration for Voxbone acquisition	663,394	1	—	—	106,379	—	—	106,380
Foreign currency translation	—	—	—	—	—	27,900	—	27,900
Stock based compensation	—	—	—	—	9,881	—	—	9,881
Net loss	—	—	—	—	—	—	(43,977)	(43,977)
<b>Balance at December 31, 2020</b>	<b>22,413,004</b>	<b>22</b>	<b>2,496,125</b>	<b>2</b>	<b>451,463</b>	<b>27,941</b>	<b>(49,505)</b>	<b>429,923</b>
Issuance of debt conversion option	—	—	—	—	66,908	—	—	66,908
Debt conversion option issuance costs, net of tax	—	—	—	—	(2,019)	—	—	(2,019)
Capped call option purchase price	—	—	—	—	(25,500)	—	—	(25,500)
Exercises of vested stock options	73,985	—	—	—	923	—	—	923
Vesting of restricted stock units	186,502	—	—	—	—	—	—	—
Equity awards withheld for tax liability	(26,458)	—	—	—	(3,835)	—	—	(3,835)
Conversion of Class B voting common stock to Class A voting common stock	530,955	1	(530,955)	—	—	—	—	1

**BANDWIDTH INC.**  
**Consolidated Statements of Changes in Stockholders' Equity**  
(In thousands, except share amounts)

	Class A voting common stock		Class B voting common stock		Additional paid-in capital	Accumulated other comprehensive (loss) income	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Foreign currency translation	—	—	—	—	—	(41,150)	—	(41,150)
Unrealized gain on employee benefit pension plan	—	—	—	—	—	169	—	169
Stock based compensation	—	—	—	—	14,537	—	—	14,537
Net loss	—	—	—	—	—	—	(27,362)	(27,362)
<b>Balance at December 31, 2021</b>	<b>23,177,988</b>	<b>\$ 23</b>	<b>1,965,170</b>	<b>\$ 2</b>	<b>\$ 502,477</b>	<b>\$ (13,040)</b>	<b>\$ (76,867)</b>	<b>\$ 412,595</b>

See accompanying notes.



**BANDWIDTH INC.**  
**Consolidated Statements of Cash Flows**  
(In thousands)

	Year ended December 31,		
	2019	2020	2021
<b>Cash flows from operating activities</b>			
Net income (loss)	\$ 2,494	\$ (43,977)	\$ (27,362)
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities			
Depreciation and amortization	9,538	16,803	36,642
Right-of-use asset amortization	4,269	4,812	5,722
Accretion of bond discount	(700)	—	—
Gain on sale of marketable securities	(4)	—	—
Amortization of debt discount and issuance costs	177	15,647	26,754
Stock-based compensation	6,626	9,881	14,537
Deferred taxes	(17,502)	14,266	(8,318)
Loss on disposal of property and equipment	456	334	832
Changes in operating assets and liabilities:			
Accounts receivable	(6,178)	(18,832)	(6,711)
Prepaid expenses and other assets	(4,245)	(3,823)	(6,751)
Accounts payable	1,145	315	1,992
Accrued expenses and other liabilities	6,028	14,393	9,693
Operating right-of-use liability	(3,357)	(5,301)	(6,227)
Net cash (used in) provided by operating activities	(1,253)	4,518	40,803
<b>Cash flows from investing activities</b>			
Purchase of property and equipment	(22,215)	(12,273)	(20,686)
Capitalized software development costs	(3,544)	(2,319)	(3,926)
Purchase of land	—	—	(30,017)
Proceeds from sale of land	—	—	17,462
Purchase of marketable securities	(68,361)	—	—
Proceeds from sales and maturities of marketable securities	86,467	—	—
Purchase of other investments	—	(230,780)	—
Proceeds from sales and maturities of other investments	—	190,780	40,000
Acquisition, net of cash acquired	—	(400,493)	—
Net cash (used in) provided by investing activities	(7,653)	(455,085)	2,833
<b>Cash flows from financing activities</b>			
Payments on finance leases	—	(28)	(212)
Proceeds from the follow-on public offering, net of underwriting discounts	147,391	—	—
Payment of costs related to the follow-on public offering	(757)	—	—
Proceeds from issuance of convertible senior notes	—	400,000	250,000
Purchase of capped call	—	(43,320)	(25,500)
Payment of Acquisition holdback	—	—	(6,689)
Payment of debt issuance costs	(167)	(11,990)	(7,544)
Proceeds from exercises of stock options	7,357	4,073	926
Value of equity awards withheld for tax liabilities	(1,406)	(1,844)	(3,954)
Net cash provided by financing activities	152,418	346,891	207,027
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(9)	109	189
Net increase (decrease) in cash, cash equivalents, and restricted cash	143,503	(103,567)	250,852
Cash, cash equivalents, and restricted cash, beginning of period	41,501	185,004	81,437
Cash, cash equivalents, and restricted cash, end of period	\$ 185,004	\$ 81,437	\$ 332,289

**BANDWIDTH INC.**  
**Consolidated Statements of Cash Flows**  
(In thousands)

<b>Supplemental disclosure of cash flow information</b>			
Cash paid for interest	\$ 341	\$ 579	\$ 1,476
Cash (refunded) paid for taxes	\$ (178)	\$ 454	\$ 1,999
Right-of-use assets obtained in exchange for new operating lease liabilities	\$ 4,528	\$ 3,105	\$ 526
Property and equipment obtained in exchange for new finance lease liabilities	\$ —	\$ 462	\$ —
<b>Supplemental disclosure of noncash investing and financing activities</b>			
Purchase of property and equipment, accrued but not paid	\$ 1,375	\$ 6,043	\$ 3,760
Lease incentive	\$ —	\$ —	\$ 4,677
Value of common stock issued in acquisition	\$ —	\$ 106,379	\$ —
Acquisition holdback	\$ —	\$ 8,595	\$ —
Equity awards withheld for tax liabilities, accrued but not paid	\$ 177	\$ 247	\$ 127
Acquisition of equipment through finance leases	\$ —	\$ 113	\$ 160

See accompanying notes.

**BANDWIDTH INC.**  
**Notes to Consolidated Financial Statements**

**1. Organization and Description of Business**

Bandwidth Inc. (together with its subsidiaries, “Bandwidth” or the “Company”) was founded in July 2000 and incorporated in Delaware on March 29, 2001. The Company’s headquarters are located in Raleigh, North Carolina. The Company is an international cloud-based, software-powered communications platform-as-a-service (“CPaaS”) provider that enables enterprises to create, scale and operate voice or messaging communications services across any mobile application or connected device.

The Company has two operating and reportable segments, CPaaS and Other. CPaaS revenue is derived from usage and monthly services fees charged for usage of Voice, Messaging, 911 and Phone Numbers solutions through the Company’s proprietary CPaaS software application programming interfaces. Other revenue consists of fees charged for services provided such as: SIP trunking, data resale, and a hosted Voice-over Internet Protocol (“VoIP”). The Other segment also includes revenue from traffic generated by other carriers, SMS registration fees and other miscellaneous product lines.

**2. Summary of Significant Accounting Policies**

**Basis of Presentation**

The consolidated financial statements and accompanying notes were prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”).

**Reclassification**

The Company reclassified certain prior year amounts to conform to the current year presentation. These reclassifications had no impact on the previously reported total assets, liabilities, stockholder’s deficit or net income.

**Principles of Consolidation**

The consolidated financial statements include the accounts of Bandwidth Inc. and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

**Use of Estimates**

The preparation of the Company’s consolidated financial statements in conformity with GAAP requires the Company to make estimates and judgments that affect the amounts reported in these financial statements and accompanying notes. These estimates in the consolidated financial statements include, but are not limited to, allowance for doubtful accounts, reserve for expected credit losses, reserve for sales credits, recoverability of long lived and intangible assets, fair value of acquired intangible assets and goodwill, discount rates used in the valuation of right-of-use assets and lease liabilities, the fair value of the liability and equity components of the Company’s Convertible Notes (as defined herein), estimated period of benefit, valuation allowances on deferred tax assets, certain accrued expenses and contingencies, economic and demographic actuarial assumptions related to pension and other postretirement benefit costs and liabilities, estimated cash flows on asset retirement obligation. Although

the Company believes that the estimates it uses are reasonable, due to the inherent uncertainty involved in making these estimates, actual results reported in future periods could differ from those estimates.

Effective January 1, 2020, due to the continued growth in customers and low churn rates, the Company updated its calculation of the estimated period of benefit for nonrefundable upfront fees from 3 to 4 years.

Effective July 1, 2020, due to significant investment in software during the first half of 2020 and management's expectation that such investment would yield benefit for a longer period of time, the Company updated its estimated useful life for internal-use software development from 3 to 4 years.

### Revenue Recognition

Revenue recognition commences upon transfer of control of promised goods or services to customers in an amount that the Company expects to receive in exchange for those products or services.

The Company determines revenue recognition through the following steps:

- identification of the contract, or contracts, with a customer;
- identification of the performance obligations in the contract;
- determination of the transaction price;
- allocation of the transaction price to the performance obligations in the contract; and
- recognition of revenue, when, or as, the Company satisfies a performance obligation.

### *Nature of Products and Services*

Revenue consists primarily of the sale of communications services offered through Application Programming Interface (“API”) software solutions to large enterprise, as well as small and medium-sized business, customers and is generally derived from usage and service fees in both the CPaaS and Other segments. Usage revenue includes voice communication (primarily driven by inbound minutes, outbound minutes and toll-free minutes) and messaging communication (driven by the number of messages) that traverse the platform and network. Service fees include the provision and management of phone numbers and emergency services access.

The majority of the Company's revenue is generated from usage-based fees earned from customers accessing the Company's communications platform. Access to the Company's communication platform is considered a series of distinct services, with continuous transfer of control to the customer, comprising one performance obligation and usage-based fees are recognized in revenue in the period the traffic traverses the Company's network. For the years ended December 31, 2019, 2020 and 2021 the revenue from usage-based fees represented \$131.6 million, \$219.8 million and \$319.0 million of CPaaS revenue, respectively, and \$29.0 million, \$40.8 million and \$73.5 million of Other revenue, respectively.

Revenue from service fees is recognized on a ratable basis as the service is provided, which is typically one month. For the years ended December 31, 2019, 2020 and 2021 the revenue from service fees represented \$61.2 million, \$72.3 million and \$87.6 million of CPaaS revenue, respectively, and \$5.6 million, \$4.2 million and \$3.5 million of Other revenue, respectively.

The remaining \$5.1 million, \$6.0 million and \$7.3 million of CPaaS revenue for the years ended December 31, 2019, 2020 and 2021, respectively, are generated from other miscellaneous services.

Infrequently, Bandwidth's contracts with customers may include multiple performance obligations. For such arrangements, revenues are allocated to each performance obligation based on its relative standalone selling price. Generally, standalone selling prices are determined based on the prices charged to similar customers for similar services.

When required as part of providing service, revenues and associated expenses related to nonrefundable, upfront service activation and setup fees are deferred and recognized over the longer of the associated service contract period or estimated customer life.

The Company's contracts do not contain general rights of return. However, occasionally credits may be issued. The Company's contracts do not provide customers with the right to take possession of the software supporting the applications. Amounts that have been invoiced are recorded in accounts receivable and in revenue or deferred revenue depending on whether the revenue recognition criteria have been met.

The Company maintains a reserve for sales credits. Credits are accounted for as variable consideration and are estimated based on several inputs including historical experience and current trends of credit issuances. Adjustments to the reserve are recorded against revenue.

The Company has various sales commission plans for which eligible employees can earn commissions from the sale of products and services to customers. Eligible employees must be employed at the time of payment in order to receive a commission. The Company pays commissions over time and a corresponding requisite substantive service condition exists for the employee to receive the commission. The Company determined that the timing of the commission payments and the underlying service performed by the employee were commensurate. Accordingly, sales commissions are generally expensed as incurred. These costs are recorded within sales and marketing expenses.

#### *Contract Assets and Liabilities*

The following table provides information about receivables and contract liabilities from contracts with customers:

	As of December 31,	
	2020	2021
	(In thousands)	
Receivables <sup>(1)</sup>	\$ 55,243	\$ 60,000
Contract liabilities <sup>(2)</sup>	12,901	12,901

<sup>(1)</sup> Included in accounts receivable, net of allowance for doubtful accounts on the consolidated balance sheet.

<sup>(2)</sup> Included in current portion of deferred revenue and deferred revenue, net of current portion on the consolidated balance sheet.

Deferred revenue is recorded when cash payments are received in advance of future usage on contracts. Revenue is typically recognized in the following month when service is rendered or, in the case of nonrefundable upfront fees, over the estimated period of benefit from the date the fee is incurred by the customer. Customer refundable payments are recorded as advanced billings. During the year ended December 31, 2021, the Company recognized revenue of \$5.7 million related to contract liabilities recorded at the beginning of the year. The Company expects to recognize \$6.2 million in revenue over the next 12 months related to its contract liabilities as of December 31, 2021.

#### **Cost of Revenue**

CPaaS cost of revenue consists primarily of fees paid to other network service providers from whom the Company buys services such as minutes of use, phone numbers, messages, porting of customer numbers, and network circuits. Cost of revenue also contains costs related to the support of the network, web services and cloud infrastructure, capacity planning and management, rent for network facilities, software licenses, hardware and software maintenance fees, and network engineering services. Personnel costs (including non-cash stock-based compensation expenses) associated with personnel who are responsible for the delivery of services, operation and

maintenance of the communications network, customer support, as well as, third party support agreements, and depreciation and amortization of acquired technology intangibles are also recorded as cost of revenue.

Other cost of revenue consists of amortization of capital software development costs related to platform applications supporting non-CPaaS services including circuit costs paid to third party providers, internet connectivity expenses, minutes of use, contractors, regulatory fees and surcharges, depreciation, and software and hardware maintenance fees.

### **Operating Expenses**

#### *Research and Development*

Research and development expenses consist primarily of personnel costs (including non-cash stock-based compensation expenses), outsourced software development and engineering services and cloud infrastructure fees for staging and development outsourced engineering services.

#### *Sales and Marketing*

Sales and marketing expenses consist primarily of personnel costs, including commissions for sales employees and non-cash stock-based compensation expenses. Sales and marketing expenses also include expenditures related to advertising, marketing, brand awareness activities, sales support and professional services fees.

#### *General and Administrative*

General and administrative expenses consist primarily of personnel costs for support personnel and executives in accounting, finance, legal, information services, human resources and administrative functions. General and administrative expenses also include costs related to product management and reporting, data services, customer billing and collection functions, and other professional services fees, credit card processing fees, rent associated with the Company's headquarters in Raleigh, North Carolina and its offices worldwide, depreciation and amortization.

### **Cash and Cash Equivalents**

The Company classifies all highly liquid investments with original stated maturities of three months or less from the date of purchase as cash equivalents. All highly liquid investments with original stated maturities of greater than three months from the date of purchase are classified as current marketable securities, with the exception of time deposits with maturities greater than ninety days which are classified as other investments. Cash deposits are primarily in financial institutions in the United States. However, cash for monthly operating costs of international operations are deposited in banks outside the United States. The Company has a policy of making investments only with commercial institutions that have at least an investment grade credit rating. The Company utilizes money market funds as an investment option and only invests in AAA rated funds.

### **Restricted Cash**

Restricted cash consists primarily of employee withholding tax liability and employee benefits contributions not yet remitted. The Company has classified this asset as a short-term asset in order to match the expected period of restriction.

### **Accounts Receivable and Current Expected Credit Losses**

Accounts receivable are stated at realizable value, net of allowances, which includes an allowance for doubtful accounts and a reserve for expected credit losses. The allowance for doubtful accounts is based on management's assessment of the collectability of its customer accounts. The Company regularly reviews the composition of the accounts receivable aging, historical bad debts, changes in payment patterns, customer creditworthiness, current economic trends, and reasonable and supportable forecasts about the future. Relevant risk

characteristics include customer size and historical loss patterns. Management has evaluated the expected credit losses related to trade accounts receivable and determined that allowances of approximately \$1.2 million and \$1.7 million for uncollectible accounts and customer balances that are disputed were required as of December 31, 2020 and December 31, 2021, respectively. Refer to Note 5, "Financial Statement Components" to these consolidated financial statements, for a rollforward of the components of the allowances as of December 31, 2020 and December 31, 2021.

The Company includes unbilled receivables in its accounts receivable balance. Generally, these receivables represent earned revenue from services provided to customers, which will be billed in the next billing cycle. All amounts are considered collectible and billable. As of December 31, 2020 and December 31, 2021, unbilled receivables were \$27.7 million and \$31.8 million, respectively.

#### **Concentration of Credit Risk**

Financial instruments that are exposed to concentration of credit risk consist primarily of cash and cash equivalents, other investments and trade accounts receivable. Cash deposits may be in excess of insured limits. The Company believes that the financial institutions that hold its cash deposits are financially sound and, accordingly, minimal credit risk exists with respect to these balances.

With regard to customers, credit evaluation and account monitoring procedures are used to minimize the risk of loss. The Company believes that no additional credit risk beyond amounts provided for by the allowance for doubtful accounts are inherent in accounts receivable. As of December 31, 2020 and December 31, 2021, one individual customer represented approximately 11% and 10%, respectively, of the Company's accounts receivable, net of allowance for doubtful accounts.

For the years ended December 31, 2019, 2020 and 2021, no individual customer represented more than 10% of the Company's revenue.

#### **Property and Equipment, net**

Property and equipment, net is stated at cost, less accumulated depreciation and amortization. Depreciation and amortization is calculated on a straight-line basis over the estimated useful lives of those assets as follows:

Computer hardware and software	1 to 7 years
Internal-use software development costs	4 to 7 years
Furniture and fixtures	2 to 5 years
Leasehold improvements	Shorter of the estimated lease term or 4 to 7 years

Maintenance and repairs are charged to expense as incurred.

#### **Deferred Costs**

The Company defers certain direct and incremental upfront costs related to the generation of a revenue stream or obtaining a new customer agreement. These costs include installment fees, activation and other telecommunication fees. The Company capitalizes these costs and amortizes them over the longer of the term of the customer contract or the estimated period of benefit, which is approximately four years.

#### **Internal-Use Software Development Costs**

Internal-use software includes software that has been acquired, internally developed, or modified exclusively to meet the Company's needs. The Company capitalizes qualifying internal-use software development costs that are incurred during the application development stage. Capitalization of costs begins when two criteria are met: (i) the preliminary project stage is completed, and (ii) it is probable that the software will be completed and used for its intended function. Capitalization ceases when the software is substantially complete and ready for its intended use, including the completion of all significant testing. The Company also capitalizes costs related to

specific upgrades and enhancements when the expenditures will result in additional functionality, and expenses costs incurred for maintenance and minor upgrades and enhancements. Costs related to preliminary project activities and post-implementation operating activities are expensed as incurred.

Capitalized costs of platform and other software applications are included in property and equipment. These costs are amortized over the estimated useful life of the software on a straight-line basis over four to seven years. Management evaluates the useful life of these assets on an annual basis and tests for impairment whenever events or changes in circumstances occur that could impact the recoverability of these assets.

#### **Debt Issuance Costs**

The Company incurs debt issuance costs associated with obtaining and entering into credit agreements and issuing convertible notes. These costs customarily include non-refundable structuring fees, commitment fees, up-front fees and syndication expenses. The Company has a policy of deferring and amortizing these costs based on the effective interest method over the term of the credit agreements or the convertible notes, as applicable.

#### **Amortization of Intangibles**

Intangible assets determinable economic lives are carried at cost, less accumulated amortization. Amortization is computed over the estimated useful life of each asset on a straight-line basis. The Company determines the useful lives of identifiable intangible assets after considering the specific facts and circumstances related to each intangible asset. Factors the Company considers when determining useful lives include the contractual term of any agreement related to the asset, the historical performance of the asset, the Company's long-term strategy for using the asset, any laws or other local regulations which could impact the useful life of the asset and other economic factors, including competition and specific market conditions. Intangible assets without determinable economic lives are carried at cost, not amortized and reviewed for impairment at least annually. Refer to Note 8, "Goodwill and Intangible Assets" to these consolidated financial statements, for the useful lives of the Company's intangible assets as of December 31, 2020 and December 31, 2021.

#### **Goodwill**

The Company reviews goodwill and indefinite-lived intangible assets at least annually, as of December 31, for possible impairment. Goodwill and indefinite-lived intangible assets are reviewed for possible impairment at an interim date if an event occurs or circumstances change that would more likely than not reduce the fair value of the reporting unit or indefinite-lived intangible asset below its carrying value. The Company tests goodwill at the reporting unit level and has determined that it has 2-reporting units, CPaaS and Other. All Goodwill is allocated to the CPaaS reporting unit. Management may first evaluate qualitative factors to assess if it is more likely than not that the fair value of a reporting unit is less than its carrying amount and to determine if a two-step impairment test is necessary. Management may choose to proceed directly to the two-step evaluation, bypassing the initial qualitative assessment. The first step of the impairment test involves comparing the fair value of the reporting unit to its net book value, including goodwill. If the carrying value exceeds its fair value, then the Company would perform the second step of the goodwill impairment test to determine the amount of the impairment loss. The impairment loss would be calculated by comparing the implied fair value of the goodwill to its carrying value. In calculating the implied fair value of goodwill, the fair value of the entity would be allocated to all of the other assets and liabilities based on their fair values. The excess of the fair value of the entity over the amount assigned to other assets and liabilities is the implied fair value of goodwill. An impairment loss would be recognized when the carrying amount of goodwill exceeds its implied fair value.

The Company makes assumptions regarding estimated future cash flows, discount rates, long-term growth rates and market values to determine each reporting unit's and indefinite-lived intangible asset's estimated fair value. If these estimates or related assumptions change in the future, the Company may be required to record an impairment charge. As of December 31, 2020 and 2021, the Company has recorded goodwill of \$372.2 million and \$344.4 million, respectively. No goodwill impairment charges were recorded for the years ended December 31, 2019, 2020 and 2021.



**Impairment of Long-Lived Assets**

The Company evaluates long-lived assets, including property and equipment and definite lived intangible assets, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by a comparison of the carrying amount of an asset or an asset group to estimated undiscounted future net cash flows expected to be generated by the asset or asset group. If such evaluation indicates that the carrying amount of the asset or the asset group is not recoverable, any impairment loss would be equal to the amount the carrying value exceeds the fair value.

**Business Combinations**

The Company uses the acquisition method of accounting for business combinations which requires the tangible and intangible assets acquired and liabilities assumed to be recorded at their respective fair market value as of the acquisition date. Goodwill represents the excess of the consideration transferred over the fair value of the net assets acquired. The fair values of the assets acquired and liabilities assumed are determined based upon the Company's valuation and involves making significant estimates and assumptions based on facts and circumstances that existed as of the acquisition date. The Company uses a measurement period following the acquisition date to gather information that existed as of the acquisition date that is needed to determine the fair value of the assets acquired and liabilities assumed. The measurement period ends once all information is obtained, but no later than one year from the acquisition date.

**Advertising Costs**

The Company expenses advertising costs as incurred. Advertising costs totaled \$1.5 million, \$1.6 million and \$1.8 million for the years ended December 31, 2019, 2020 and 2021, respectively, which are included in sales and marketing expenses in the accompanying consolidated statements of operations.

**Commissions**

Commissions consist of variable compensation earned by sales personnel and third-party resellers. Sales commissions associated with the acquisition of a new customer contract are paid over time, based on monthly revenues, and are recognized as sales and marketing expense in the period incurred.

**Stock-Based Compensation**

The Company accounts for stock-based compensation expense related to all stock-based awards based on the fair value of the award on the grant date. Stock-based compensation expense is recognized on a straight-line basis over the requisite service period, which is generally four years. The fair value of the restricted stock units is determined using the fair value of the Company's Class A common stock on the date of grant. The Company uses the Black-Scholes option pricing model, net of estimated forfeitures, to measure the fair value of its stock options.

The Company has elected to estimate expected forfeitures, and, as such, the Company must also determine a forfeiture rate to calculate the stock-based compensation for awards. Through December 31, 2021, the Company recognized compensation for only the portion of options expected to vest using an estimated forfeiture rate that was derived from historical employee termination behavior. If any of the assumptions used in the Black-Scholes option pricing model change, stock-based compensation for future options may differ materially compared to that associated with previous grants.

**Income Taxes**

The Company accounts for income taxes under the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on temporary differences between the financial statement and tax

basis of assets and liabilities using enacted tax rates. The Company recognizes the effect of a change in tax rates on deferred tax assets and liabilities in the period that includes the enactment date.

The Company reduces the measurement of a deferred tax asset, if necessary, by a valuation allowance if it is more likely than not that it will not realize some or all the deferred tax asset. Quarterly, the Company reviews the deferred tax assets for recoverability based on historical taxable income, projected future taxable income, the expected timing of the reversals of existing temporary differences and the implementation of prudent and feasible tax planning strategies. The evaluation of the recoverability of deferred tax assets requires judgment in assessing future profitability. Should there be a change in the ability to recover deferred tax assets, the Company's income tax provision would increase or decrease in the period in which the assessment is changed.

The Company accounts for uncertain tax positions by recognizing the financial statement effects of a tax position only when, based upon technical merits, it is more likely than not that the position will be sustained upon examination. The tax benefit recognized is measured as the largest amount of benefit determined on a cumulative probability basis that the Company believes is more likely than not to be realized upon ultimate settlement of the position. The Company recognizes potential accrued interest and penalties associated with unrecognized tax positions in income tax expense.

### **Operating Segments**

Operating segments are defined as components of an enterprise for which separate financial information is available and evaluated regularly by the chief operating decision maker ("CODM") in deciding how to make operating decisions, allocate resources and in assessing performance. The Company has two operating segments, CPaaS and Other, which are deemed to be reportable segments. The Company's CODM is its Chief Executive Officer. The CODM evaluates the performance of the Company's operating segments primarily based on revenue and gross profit. The Company does not analyze discrete segment balance sheet information related to long-term assets. All other financial information is evaluated on a consolidated basis.

### **Earnings per Share**

Basic earnings per share attributable to common stockholders is calculated by dividing the net income attributable to common stockholders by the weighted-average number of shares of common stock outstanding for the period.

Diluted net income per share is calculated by giving effect to all potentially dilutive common stock when determining the weighted-average number of common shares outstanding. For purposes of the diluted net income (loss) per share calculation, options to purchase common stock, restricted stock units and redeemable convertible preferred stock are considered to be potential common stock.

### **Foreign currency translation**

The Company has foreign operations with non-USD functional currencies. The Euro and British Pound are the primary functional currencies for the Company's international operations.

All of the assets and liabilities of these subsidiaries are converted to U.S. dollars at the exchange rate in effect at the balance sheet date, and equity accounts are carried at historical exchange rates. Revenue and expenses are translated at average exchange rates in effect during each reporting period. The net effect of foreign currency translation adjustments is included in shareholder's equity as a component of "Accumulated other comprehensive loss" line item in the accompanying consolidated balance sheets.

Foreign currency transaction gains and losses are the result of exchange rate changes during the period of time between the consummation and cash settlement of transactions denominated in currencies other than the

functional currency. Foreign currency transaction gains and losses are recognized in current period earnings as incurred.

Foreign exchange gains and losses, which result from the process of remeasuring foreign currency transactions into the appropriate functional currency, are included in other income (expense), net in the Company's consolidated statements of operations. The Company recorded less than \$0.1 million in related gains and losses during each of the years ended December 31, 2019, 2020 and 2021.

#### **Fair Value of Financial Instruments**

The Company minimizes its credit risk associated with investments by investing primarily in investment grade, liquid securities. The Company policy is designed to preserve capital, maintain liquidity and minimize credit risk, and the policy limits exposure to any one issuer and also establishes minimum credit ratings of approved investments. Periodic evaluations of relative credit standing of those issuers are considered in the Company's investment strategy.

The Company uses a three-tier fair value hierarchy to classify and disclose all assets and liabilities measured at fair value on a recurring basis, as well as assets and liabilities measured at fair value on a non-recurring basis, in periods subsequent to their initial measurement. The hierarchy requires use of observable inputs when available, and to minimize the use of unobservable inputs when determining fair value. The three tiers are defined as follows:

- **Level 1.** Observable inputs based on unadjusted quoted prices in active markets for identical assets or liabilities;
- **Level 2.** Inputs, other than quoted prices in active markets, that are observable either directly or indirectly; and
- **Level 3.** Unobservable inputs for which there is little or no market data, which requires the Company to develop its own assumptions.

A financial instrument's categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

#### **Comprehensive Income (Loss)**

The Company has elected to present Comprehensive Income (Loss) and its components as a separate financial statement. Comprehensive income refers to net income and other revenue, expenses, gains and losses that, under generally accepted accounting principles, are recorded as an element of stockholders' equity but are excluded from the calculation of net income.

#### **Recently Adopted Accounting Standards**

In December 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*, which is intended to simplify various aspects related to accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and also clarifies and amends existing guidance to improve consistent application. ASU 2019-12 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020. The Company adopted this standard on January 1, 2021 on a prospective basis, which did not have a material impact on the Company's financial statements.

### Recent Accounting Pronouncements Not Yet Adopted

In May 2021, the FASB issued ASU 2021-04, *Earnings Per Share (Topic 260)*, *Debt —Modifications and Extinguishments (Subtopic 470-50)*, *Compensation--Stock Compensation (Topic 718)*, and *Derivatives and Hedging--Contracts in Entity's Own Equity (Subtopic 815-40)*, which is intended to provide clarity surrounding the treatment for a modification or an exchange of a freestanding equity-classified written call option. The amendments also provide guidance for the recognition and measurement of earnings-per-share (“EPS”) for certain modifications or exchanges of freestanding equity-classified written call options for entities that present EPS. The amendments do not affect a holder’s accounting for freestanding call options. ASU 2021-04 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. The Company did not and does not expect to have any modification or exchanges of freestanding written call options classified in equity during the reporting period and therefore does not expect adoption will have a material impact on its financial statements.

In August 2020, the FASB issued ASU 2020-06, *Debt - Debt with Conversion and Other Options (Subtopic 470-20)* and *Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40)*, which is intended to address issues identified as a result of the complexity associated with applying GAAP for certain financial instruments with characteristics of liabilities and equity. For convertible instruments, ASU 2020-06 reduces the number of accounting models for convertible debt instruments and convertible preferred stock, and enhances information transparency by making targeted improvements to the disclosures for convertible instruments and EPS guidance on the basis of feedback from financial statement users. ASU 2020-06 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2021. Early adoption is permitted, but no earlier than fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. The Company will adopt the new guidance on January 1, 2022 using the modified retrospective approach resulting in adjustments in accumulated deficit and paid in capital. The Company will also record an increase in the convertible notes balance as a result of the reversal of the separation of the convertible debt between debt and equity. The adoption of this standard will decrease the amount of non-cash interest expense to be recognized in future periods as a result of eliminating the discount associated with the equity component. The number of diluted shares will increase as a result of transitioning from the treasury stock method to the as-if converted method for the calculation. The Company is currently quantifying the effect of adopting this new accounting guidance on its financial statements and earnings per share calculations.

### 3. Business Combination

#### *Voxbone Acquisition*

On November 2, 2020, the Company acquired all of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares of Voice Topco Limited (“Voice Topco”) through a Share Purchase Agreement (the “Share Purchase Agreement” and such purchase, the “Share Purchase”). Voice Topco directly or indirectly held all of the issued and outstanding shares of Voxbone S.A., which (with its subsidiaries) was the operating subsidiary of Voice Topco (“Voxbone”). The transaction was valued at €446 million. As consideration for the Share Purchase, the Company (i) paid the selling stockholders approximately \$400 million (or approximately €338 million based on prevailing exchange rates at the close of business on October 9, 2020) at the Closing and (ii) issued to the selling stockholders at the Closing shares of the Company’s Class A common stock, with an aggregate value of approximately €108 million (or approximately \$128 million based on prevailing exchange rates at the close of business on October 9, 2020).

During the year ended December 31, 2021 the Company made measurement period adjustments to reflect facts and circumstances in existence as of October 31, 2020, the effective date of the Share Purchase (the “Effective Date”). The adjustments primarily related to certain state and local tax liabilities as well as an adjustment related to the finalization of the net working capital adjustment which were not reasonably estimable at the Effective Date and

consisted of a \$1.0 million increase to goodwill and \$1.0 million increase to accrued expenses and other current liabilities.

The Company, in accordance with the Share Purchase Agreement (“SPA”), paid the selling stockholders \$7.6 million, which included \$7.4 million of the amount held in escrow as a holdback amount and \$0.2 million in interest earned from the escrow.

#### 4. Fair Value Measurements

The carrying amounts of cash and cash equivalents, other investments, accounts receivable, accounts payable and accrued expenses approximate fair value as of December 31, 2020 and 2021 because of the relatively short duration of these instruments.

The Company evaluated its financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level in which to classify them for each reporting period.

The following table summarizes the assets measured at fair value as of December 31, 2020 and December 31, 2021:

	Fair value measurements on a recurring basis			
	December 31, 2020			
	Level 1	Level 2	Level 3	Total
	(In thousands)			
<b>Financial assets:</b>				
Cash and cash equivalents:				
Money market account	\$ 57,517	\$ —	\$ —	\$ 57,517
Other investments:				
Time deposits	40,000	—	—	40,000
Total financial assets	<u>\$ 97,517</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 97,517</u>

	Fair value measurements on a recurring basis			
	December 31, 2021			
	Level 1	Level 2	Level 3	Total
	(In thousands)			
<b>Financial assets:</b>				
Cash and cash equivalents:				
Money market account	\$ 241,157	\$ —	\$ —	\$ 241,157
Total financial assets	<u>\$ 241,157</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 241,157</u>

As of the years ended December 31, 2020 and 2021, the fair value of the 2026 Convertible Notes, as further described in Note 9, “Debt”, was approximately \$716.3 million and \$427.1 million, respectively. As of December 31, 2021, the fair value of the 2028 Convertible Notes, as further described in Note 9, “Debt”, was approximately \$194.2 million. The fair value was determined based on the closing price for the Convertible Notes on the last trading day of the reporting period and is considered as Level 2 in the fair value hierarchy.

As of the years ended December 31, 2020 and 2021, the fair value of the Pension Plan’s assets, as further described in Note 14, “Employee Benefit Plans”, was approximately \$2.9 million and \$3.0 million, respectively. The fair value was determined by an independent actuary and is considered as Level 2 in the fair value hierarchy.

The Company monitors the availability of observable market data to assess the appropriate classification of financial instruments within the fair value hierarchy. Changes in economic conditions or model-based valuation techniques may require the transfer of financial instruments from one fair value level to another. In such instances, the transfer is reported at the beginning of the reporting period. There were no transfers between Levels 1, 2 or 3 during the years ended December 31, 2020 and 2021.

The money market account is included in cash and cash equivalents in the consolidated balance sheets as of December 31, 2020 and December 31, 2021.

During the year ended December 31, 2019, there was \$69.0 million in maturities of marketable securities. There were no maturities in marketable securities during the years ended December 31, 2020 and 2021, respectively.

There were no sales of marketable securities for the years ended December 31, 2020 and 2021. Proceeds and gross realized gains from sales of marketable securities were \$17.5 million and less than \$0.1 million, respectively for the year ended December 31, 2019. The cost of the securities sold was based on the specific identification method and the gross realized gain is recorded as other income (expense), net, in the consolidated statements of operations.

Interest earned on marketable securities was less than \$0.1 million for the years ended December 31, 2019, 2020 and 2021, respectively, and is recorded within other income (expense), net in the accompanying consolidated statements of operations.

## 5. Financial Statement Components

Accounts receivable, net of allowances consist of the following:

	As of December 31,	
	2020	2021
	(In thousands)	
Trade accounts receivable	\$ 26,504	\$ 31,036
Unbilled accounts receivable	27,692	31,786
Allowance for doubtful accounts and reserve for expected credit losses	(1,203)	(1,661)
Other accounts receivable	2,250	411
Total accounts receivable, net	<u>\$ 55,243</u>	<u>\$ 61,572</u>

Components of allowance for doubtful accounts and reserve for expected credit losses are as follows:

	Year ended December 31,	
	2020	2021
	(In thousands)	
<b>Allowance for doubtful accounts:</b>		
Balance, beginning of period	\$ (769)	\$ (1,203)
Charged to bad debt expense	(1,322)	(913)
Deductions (1)	888	416
Impact of foreign currency translation	—	39
Balance, end of period	<u>\$ (1,203)</u>	<u>\$ (1,661)</u>

(1) Write off of uncollectible accounts after all collection efforts have been exhausted.

Accrued expenses and other current liabilities consisted of the following:

	As of December 31,	
	2020	2021
	(In thousands)	
Accrued expense	\$ 31,549	\$ 31,264
Accrued compensation and benefits	19,534	19,042
Accrued sales, use, VAT and telecommunications related taxes	9,142	11,046
Current portion of finance lease	183	177
Other accrued expenses	2,657	4,392
Total accrued expenses and other current liabilities	\$ 63,065	\$ 65,921

## 6. Right-of-Use Asset and Lease Liabilities

Right-of-use (“ROU”) assets represent the Company’s right to use an underlying asset for the lease term, and lease liabilities represent the Company’s obligation to make lease payments arising from the lease. The Company determines if an arrangement is a lease at inception. ROU assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. Operating lease expense attributable to lease payments is recognized on a straight-line basis over the lease term and is included in general and administrative expense on the Company’s consolidated statements of operations. Finance leases result in the recognition of depreciation expense, which is recognized on a straight-line basis over the expected life of the leased asset, and interest expense, which is recognized following an effective interest rate method. Depreciation expense attributable to finance leases is included in general and administrative expense on the Company’s consolidated statements of operations. The Company presents the operating leases in long-term assets and current and long-term liabilities in the accompanying consolidated balance sheets. Finance leases are reported in property, plant and equipment, net, accrued expenses and other current liabilities, and other liabilities on the Company’s consolidated balance sheets.

The Company sub-leases approximately 17,073 square feet of office space to a related party, Relay, Inc. (f/k/a Republic Wireless, Inc.) (“Relay”). Future minimum sub-lease receipts required under the non-cancellable lease are as follows:

	As of December 31,	
	2021	
	(In thousands)	
2022	\$	249

As of December 31, 2021, the Company had various leased properties in the United States and internationally, with remaining lease terms of six months to 5 years, some of which include options to extend the leases for up to 5 years. None of the options to extend the leases are recognized in operating lease ROU assets or lease liabilities. The Company has one lease with an early-termination option, which it does not expect to exercise. The Company has a lease not yet commenced, with a lease term of 20 years and two options to extend the lease by a term of ten years each, up to twenty additional years in total.

The components of lease expense recorded in general and administrative expenses in the consolidated statement of operations were as follows:

**Notes to Consolidated Financial Statements (continued)**

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Operating lease cost	\$ 5,548	\$ 5,949	\$ 6,818
Finance lease cost:			
Depreciation of assets	—	20	218
Interest on lease liabilities	—	2	18
Sublease income (1)	(643)	(384)	(384)
<b>Total net lease cost</b>	<b>\$ 4,905</b>	<b>\$ 5,587</b>	<b>\$ 6,670</b>

(1) See Note 16, “Related Parties” to these consolidated financial statements, for additional details on sublease income.

During the years ended December 31, 2019, 2020 and 2021, short-term operating lease expense was \$0.0 million, \$0.2 million and \$1.3 million, respectively.

Supplemental balance sheet information related to leases was as follows:

Leases	Classification	As of December 31,	
		2020	2021
		(In thousands)	
<b>Assets:</b>			
Operating lease assets	Operating right-of-use asset, net (1)	\$ 19,491	\$ 14,061
Finance lease assets	Property, plant and equipment, net (2)	464	373
<b>Total leased assets</b>		<b>\$ 19,955</b>	<b>\$ 14,434</b>
<b>Liabilities:</b>			
Current			
Operating	Operating lease liability, current	\$ 5,515	\$ 5,807
Finance	Accrued expenses and other current liabilities	183	177
Non-current			
Operating	Operating lease liability, net of current portion	17,202	10,958
Finance	Other liabilities	282	202
<b>Total lease liabilities</b>		<b>\$ 23,182</b>	<b>\$ 17,144</b>

(1) Operating lease assets are recorded net of accumulated amortization of \$9.1 million and \$14.8 million as of December 31, 2020 and December 31, 2021, respectively.

(2) Finance lease assets are recorded net of accumulated depreciation of \$0.0 million and \$0.2 million as of December 31, 2020 and December 31, 2021, respectively.



**Notes to Consolidated Financial Statements (continued)**

Supplemental cash flow and other information related to leases was as follows:

	Year ended December 31,		
	2019	2020	2021
(In thousands)			
<b>Cash paid for amounts included in the measurement of lease liabilities</b>			
Operating cash flows from operating leases	\$ 3,357	\$ 5,301	\$ 6,227
Financing cash flows from finance leases	—	28	212
	<u>\$ 3,357</u>	<u>\$ 5,329</u>	<u>\$ 6,439</u>
<b>Weighted average remaining lease term (in years)</b>			
Operating leases	4.35	3.79	2.95
Finance leases	—	2.99	2.44
<b>Weighted average discount rate</b>			
Operating leases	4.98 %	4.81 %	4.78 %
Finance leases	— %	4.00 %	3.91 %

Maturities of lease liabilities were as follows:

	As of December 31, 2021	
	Operating Leases	Finance Leases
(In thousands)		
2022	\$ 6,422	\$ 191
2023	6,601	121
2024	2,649	75
2025	1,623	10
2026	692	—
Total lease payments	17,987	397
Less: imputed interest	(1,222)	(18)
Total lease obligations	16,765	379
Less: current obligations	(5,807)	(177)
Long-term lease obligations	<u>\$ 10,958</u>	<u>\$ 202</u>

On June 4, 2021, the Company purchased approximately 40 acres of undeveloped land (the “Property”) in Raleigh, North Carolina, from the State of North Carolina (the “State”). The Company paid \$30.0 million for the land. Additionally, as consideration for the Property, the Company agreed to construct, at its expense, a parking lot and related improvements (the “Parking Improvements”) on land owned by the State adjacent to the Property. The estimated cost of construction of the Parking Improvements was \$7.8 million. Subsequent to the purchase of the Property, the Company sold a portion of the Property constituting approximately 23.76 acres (the “Conveyed Parcel”) to USEF Edwards Mill Owner, LLC (the “Developer”) for \$17.5 million. In addition, the Developer agreed to construct, at its expense, the Parking Improvements in connection with the Company’s purchase of the Property from the State. The Company retained approximately 17.06 acres of the Property, which was recorded at cost and is included in the Company’s consolidated balance sheet as a component property, plant and equipment, net. The

Company recorded an asset for the Developer's obligation to construct the Parking Improvements at the Developer's expense, which is included as a component of prepaid expenses and other current assets in the consolidated balance sheet as of December 31, 2021. A lease incentive of \$4.7 million was recognized for the difference between the consideration received from the Developer for the Conveyed Parcel and the cost basis of the Conveyed Parcel and is included as a component of other liabilities on the consolidated balance sheet. On October 1, 2021, the developer delivered the completed parking improvements and the State released the Company from its liability.

On May 27, 2021, the Company entered into a Lease Agreement (the "Lease") with the Developer for the Conveyed Parcel, together with improvements for office and related infrastructure to be constructed thereon, collectively constituting approximately 534,000 gross square feet (the "Project"). The lease became effective upon closing of the sale of the Conveyed Parcel to the Developer. When construction of the Project is completed, the Company intends to relocate its corporate headquarters to the Project. The lease term will commence upon substantial completion of the final building to be delivered, as evidenced by a certificate of occupancy issued by the City of Raleigh (the "Commencement Date"), and continue for a period of twenty (20) years (the "Initial Term"). It is anticipated that the Commencement Date will occur in May 2023. The Company has the option to renew the Initial Term for two ten-year periods at a rental rate equal to 100% of the then-prevailing market rental rate for comparable buildings in the Raleigh, North Carolina, market. Upon the effective date, the Company deposited \$2.5 million with the Developer as security on the lease. The deposit is included in other long-term assets on the Company's consolidated balance sheet. Additionally, the Company placed \$3.0 million in escrow to fund the certain tenant improvements expected to be constructed as part of the development of the Project.

No right-of-use assets or lease liabilities have been recognized in connection with the lease as of December 31, 2021. Future lease payments are included in Note 13, "Commitments and Contingencies".

#### *Asset Retirement Obligation*

The Company has an obligation to return one of its leased properties to its original leased condition. These costs are accrued at the present value of expected cost to settle the obligation using estimated cash flows. The cash flows are discounted at a current pre-tax rate that reflects the risk specific to the retirement liability. The estimated future cost of restoration is reviewed annually and adjusted as appropriate. As of December 31, 2021, asset retirement obligation was \$0.2 million included in other liabilities.

**7. Property, Plant and Equipment**

Property, plant and equipment, net consisted of the following:

	As of December 31,	
	2020	2021
	(In thousands)	
Furniture and fixtures	\$ 2,341	\$ 2,240
Computer and office equipment	4,077	5,419
Telecommunications equipment	60,651	76,963
Leasehold improvements	6,285	6,970
Software	3,901	6,942
Internal-use software development	19,968	22,917
Automobile	502	616
Land	—	17,269
<b>Total cost</b>	<b>97,725</b>	<b>139,336</b>
Less—accumulated depreciation	(46,080)	(69,732)
<b>Total property, plant and equipment, net</b>	<b>\$ 51,645</b>	<b>\$ 69,604</b>

The Company capitalizes the costs to design software for internal use related to the development of its platform during the application development stage of the projects. The costs are primarily comprised of salaries and benefits of the projects' engineers and product development teams. Internally developed software is reported at cost less accumulated amortization. Amortization begins once the project is substantially complete and ready for its intended use. The Company amortizes the asset on a straight-line basis over the useful life, which is estimated to be 4 years. Costs incurred prior to the application development stage, maintenance activities or minor upgrades are expensed in the period incurred. Unamortized software development costs were approximately \$6.0 million and \$7.5 million as of December 31, 2020 and 2021, respectively.

The Company capitalized \$3.6 million, \$2.3 million, and \$3.9 million of software development costs for the years ended December 31, 2019, 2020 and 2021, respectively.

Amortization expense related to capitalized software development costs \$2.0 million, \$2.0 million, and \$1.8 million for the years ended December 31, 2019, 2020 and 2021, respectively. As of December 31, 2021, unamortized implementation costs related to cloud computing arrangements are \$0.4 million, of which \$0.1 million are included in prepaid expenses and other current assets and \$0.3 million are included in other long-term assets.

The Company leases automobiles under leases accounted for as finance leases with expiration dates ranging from February 28, 2022 to June 30, 2025. As of December 31, 2020, cost and accumulated depreciation of the assets under finance leases recorded by the Company were \$0.5 million and less than \$0.1 million, respectively. As of December 31, 2021, cost and accumulated depreciation of the assets under finance leases recorded by the Company were \$0.6 million and \$0.2 million, respectively.

The Company recognized an impairment of \$0.3 million, \$0.2 million, and \$0.5 million during the years ended December 31, 2019, 2020 and 2021, respectively, related to capitalized software development costs that provided no future benefit and therefore were impaired. This expense is reflected within cost of revenue in the accompanying consolidated statements of operations.

The Company recognized depreciation expense, which includes amortization of capitalized software development costs, as follows:

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Cost of revenue	\$ 6,583	\$ 9,536	\$ 12,051
Research and development	268	670	1,189
Sales and marketing	112	120	124
General and administrative	2,055	2,811	4,159
Total depreciation expense	<u>\$ 9,018</u>	<u>\$ 13,137</u>	<u>\$ 17,523</u>

**8. Goodwill and Intangible Assets**
**Goodwill**

The changes in carrying amount of goodwill were as follows:

	<b>Total</b>
	<b>(In thousands)</b>
Balance as of December 31, 2019	\$ 6,867
Goodwill additions related to 2020 acquisition	346,564
Impact of foreign currency translation	18,808
Balance as of December 31, 2020	372,239
Measurement period adjustment	999
Impact of foreign currency translation	(28,815)
Balance as of December 31, 2021	<u>\$ 344,423</u>

**Intangible Assets**

Intangible assets, net consisted of the following as of December 31, 2020:

	<b>Gross Amount</b>	<b>Accumulated Amortization</b>	<b>Net Carrying Value</b>	<b>Amortization Period</b>
	<b>(In thousands)</b>			<b>(In years)</b>
Customer relationships	\$ 166,955	\$ (6,850)	\$ 160,105	15 - 20
Developed technology	89,439	(2,253)	87,186	10
Other, definite lived	3,158	(3,158)	—	2 - 7
Licenses, indefinite lived	764	—	764	Indefinite
Total intangible assets, net	<u>\$ 260,316</u>	<u>\$ (12,261)</u>	<u>\$ 248,055</u>	

Intangible assets, net consisted of the following as of December 31, 2021:

	<b>Gross Amount</b>	<b>Accumulated Amortization</b>	<b>Net Carrying Value</b>	<b>Amortization Period</b>
	<b>(In thousands)</b>			<b>(In years)</b>
Customer relationships	\$ 155,081	\$ (16,861)	\$ 138,220	15 - 20
Developed technology	82,548	(10,315)	72,233	10
Other, definite lived	3,158	(3,158)	—	2 - 7
Licenses, indefinite lived	764	—	764	Indefinite
Total intangible assets, net	<u>\$ 241,551</u>	<u>\$ (30,334)</u>	<u>\$ 211,217</u>	

The Company recognized amortization expense as follows:

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Cost of revenue	\$ —	\$ 1,445	\$ 8,543
General and administrative	520	2,221	10,576
Total amortization expense	<u>\$ 520</u>	<u>\$ 3,666</u>	<u>\$ 19,119</u>

The remaining weighted average amortization period for definite lived intangible assets is 12 years.

Future estimated amortization expense for definite lived intangible assets is as follows:

	As of December 31, 2021
	(In thousands)
2022	\$ 18,344
2023	18,344
2024	18,344
2025	18,344
2026	18,344
Thereafter	118,733
	<u>\$ 210,453</u>

## 9. Debt

### *Revolving Loan*

On May 25, 2021, the Company terminated the Credit and Security Agreement, dated as of November 4, 2016 as amended and restated as of March 1, 2019, among the Company, Key Bank National Association, and KeyBanc Capital Markets Inc. (the "Credit Agreement"). The agreement provided for a secured \$25 million revolving credit facility (the "Credit Facility"). As of December 31, 2020 and at the date of termination, no outstanding indebtedness existed under the Credit Facility and the Company was in compliance with all financial and non-financial covenants.

As of December 31, 2020, unamortized debt issuance costs were \$0.1 million, of which were included in prepaid expenses and other current assets, and other long-term assets. As of December 31, 2021, there were no outstanding debt issuance costs.

### *Convertible Senior Notes and Capped Call Transactions*

#### 2026 Convertible Notes

On February 28, 2020, the Company issued \$400 million aggregate principal amount of 0.25% Convertible Notes due March 1, 2026 in a private placement to qualified institutional buyers pursuant to Rule 144A under the

Securities Act (the “2026 Convertible Notes”). The interest on the 2026 Convertible Notes is payable semi-annually in arrears on March 1 and September 1 of each year, beginning on September 1, 2020.

The 2026 Convertible Notes may bear special interest under specified circumstances relating to the Company's failure to comply with its reporting obligations under the indenture governing the 2026 Convertible Notes (the “2026 Indenture”) or if the 2026 Convertible Notes are not freely tradeable as required by the 2026 Indenture. The 2026 Convertible Notes will mature on March 1, 2026, unless earlier repurchased, redeemed by the Company, or converted pursuant to their terms. The total net proceeds from the 2026 Convertible Notes, after deducting initial purchaser discounts, costs related to the 2026 Capped Calls (as defined herein), and debt issuance costs, paid by the Company, were approximately \$344.7 million.

Each \$0.001 principal amount of the 2026 Convertible Notes is initially convertible into 10.9857 shares of the Company's Class A common stock, par value \$0.001 per share, which is equivalent to an initial conversion price of approximately \$91.03 per share. The conversion rate is subject to adjustment upon the occurrence of certain specified events but will not be adjusted for any accrued and unpaid special interest. In addition, upon the occurrence of a make-whole fundamental change, as defined in the 2026 Indenture, the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its 2026 Convertible Notes in connection with such make-whole fundamental change or during the relevant redemption period.

The 2026 Convertible Notes will be redeemable in whole or in part at the Company's option on or after March 6, 2023, but before the fortieth (40<sup>th</sup>) scheduled trading day before the maturity date, at a cash redemption price equal to 100% of the principal amount of the 2026 Convertible Notes to be redeemed, plus accrued and unpaid interest, if any, if the last reported sale price of the Class A common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading days ending on, and including, the trading day immediately before the date the redemption notices were sent; and the trading day immediately before such notices were sent.

Prior to the close of business on the business day immediately preceding September 1, 2025, the 2026 Convertible Notes may be convertible at the option of the holders only under the following circumstances:

- (1) during any calendar quarter commencing after the calendar quarter ending on June 30, 2020 (and only during such calendar quarter), if the last reported sale price per share of the Company's Class A common stock exceeds 130% of the conversion price for each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter;
- (2) during the five consecutive business days immediately after any 10 consecutive trading day period (such 10 consecutive trading day period, the “measurement period”) in which the trading price per \$0.001 principal amount of 2026 Convertible Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per share of the Company's Class A common stock on such trading day and the conversion rate on such trading day;
- (3) upon the occurrence of certain corporate events or distributions on its Class A common stock; and
- (4) if the Company calls such 2026 Convertible Notes for redemption.

On or after September 1, 2025, until the close of business on the second scheduled trading day immediately preceding the maturity date, holders of the 2026 Convertible Notes may, at their option, convert all or a portion of their 2026 Convertible Notes regardless of the foregoing conditions.

Prior to and during the nine months ended September 20, 2021, the conditional conversion feature of the 2026 Convertible Notes was triggered as the last reported sale price of the Company's Class A common stock was

more than or equal to 130% of the conversion price for at least 20 trading days (whether or not consecutive) in the period of 30 consecutive trading days ending on or after June 30, 2020 (the last trading day of the calendar quarter), and therefore the 2026 Convertible Notes were convertible, in whole or in part, at the option of the holders between July 1, 2020 through September 30, 2021. The conditional conversion feature of the 2026 Convertible Note was not triggered from October 1, 2021 through December 31, 2021 as the last reported sale price of the Company's Class A common stock was not more than or equal to 130% of the conversion price for at least 20 trading days (whether or not consecutive) in the period of 30 consecutive trading days (the last trading day of the calendar quarter). Whether the 2026 Convertible Notes will be convertible following such period will depend on the satisfaction of this condition or another conversion condition in the future. The Company continues to classify the 2026 Convertible Notes as a long-term liability in its consolidated balance sheet as of December 31, 2021, based on contractual settlement provisions.

Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of Class A common stock, or a combination of cash and shares of Class A common stock, at the Company's election. It is the Company's current intent to settle the principal amount of the 2026 Convertible Notes with cash.

No sinking fund is provided for the 2026 Convertible Notes. Upon the occurrence of a fundamental change (as defined in the 2026 Indenture) prior to the maturity date, holders may require the Company to repurchase all or a portion of the 2026 Convertible Notes for cash at a price equal to the principal amount of the 2026 Convertible Notes to be repurchased, plus any accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

In accounting for the issuance of the 2026 Convertible Notes, the Company separated the 2026 Convertible Notes into liability and equity components. The carrying amount of the liability component was calculated by measuring the fair value of a similar debt instrument that does not have an associated convertible feature. The carrying amount of the equity component representing the conversion option was \$125.2 million and was determined by deducting the fair value of the liability component from the par value of the 2026 Convertible Notes. The difference represents the debt discount that is amortized to interest expense at an effective interest rate of 6.763% over the term of the 2026 Convertible Notes. The carrying amount of the equity component was \$57.5 million and is recorded in additional paid-in-capital. The equity component is not remeasured as long as it continues to meet the conditions for equity classification. The excess of the principal amount of the liability component over its carrying amount, or the debt discount, is amortized to interest expense at an annual effective interest rate of 6.907% over the contractual terms of the 2026 Convertible Notes.

In accounting for the transaction costs related to the 2026 Convertible Notes, the Company allocated the total amount incurred to the liability and equity components of the 2026 Convertible Notes based on the proportion of the proceeds allocated to the debt and equity components. Issuance costs attributable to the liability component were approximately \$8.2 million, were recorded as an additional debt discount and are amortized to interest expense using the effective interest method over the contractual terms of the 2026 Convertible Notes. Issuance costs attributable to the equity component of \$3.7 million were netted with the equity component in stockholders' equity.

#### 2028 Convertible Notes

On March 16, 2021, the Company issued \$250 million aggregate principal amount of 0.50% Convertible Notes due April 1, 2028 in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act (the "2028 Convertible Notes and, together with the 2026 Convertible Notes, the "Convertible Notes"). The interest on the 2028 Convertible Notes is payable semi-annually in arrears on April 1 and October 1 of each year, beginning on October 1, 2021.



The 2028 Convertible Notes may bear special interest under specified circumstances relating to the Company's failure to comply with its reporting obligations under the indenture governing the 2028 Convertible Notes (the "2028 Indenture") or if the 2028 Convertible Notes are not freely tradeable as required by the 2028 Indenture. The 2028 Convertible Notes will mature on April 1, 2028, unless earlier repurchased, redeemed by the Company, or converted pursuant to their terms. The total net proceeds from the 2028 Convertible Notes, after deducting initial purchaser discounts, costs related to the 2028 Capped Calls (as defined herein), and debt issuance costs, paid by the Company, were approximately \$217 million.

Each \$0.001 principal amount of the 2028 Convertible Notes is initially convertible into 5.5781 shares of the Company's Class A common stock, par value \$0.001 per share, which is equivalent to an initial conversion price of approximately \$179.27 per share. The conversion rate is subject to adjustment upon the occurrence of certain specified events but will not be adjusted for any accrued and unpaid special interest. In addition, upon the occurrence of a make-whole fundamental change, as defined in the 2028 Indenture, the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its 2028 Convertible Notes in connection with such make-whole fundamental change or during the relevant redemption period.

The 2028 Convertible Notes will be redeemable in whole or in part at the Company's option on or after April 6, 2025, but before the fortieth (40<sup>th</sup>) scheduled trading day before the maturity date, at a cash redemption price equal to 100% of the principal amount of the 2028 Convertible Notes to be redeemed, plus accrued and unpaid interest, if any, if the last reported sale price of the Class A common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading days ending on, and including, the trading day immediately before the date the redemption notices were sent; and the trading day immediately before such notices were sent.

On or after April 6, 2025 until the close of business on the scheduled trading day immediately preceding the maturity date, the 2028 Convertible Notes may be convertible at the option of the holders only under the following circumstances:

- (1) during any calendar quarter commencing after the calendar quarter ending on June 30, 2021 (and only during such calendar quarter), if the last reported sale price per share of the Company's Class A common stock exceeds 130% of the conversion price for each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter;
- (2) during the five consecutive business days immediately after any 10 consecutive trading day period (such 10 consecutive trading day period, the "measurement period") in which the trading price per \$0.001 principal amount of 2028 Convertible Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per share of the Company's Class A common stock on such trading day and the conversion rate on such trading day;
- (3) upon the occurrence of certain corporate events or distributions on its Class A common stock; and
- (4) if the Company calls such 2028 Convertible Notes for redemption.

On or after October 1, 2027, until the close of business on the second scheduled trading day immediately preceding the maturity date, holders of the 2028 Convertible Notes may, at their option, convert all or a portion of their Convertible Notes regardless of the foregoing conditions.

Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of Class A common stock, or a combination of cash and shares of Class A common stock, at the Company's election. It is the Company's current intent to settle the principal amount of the 2028 Convertible Notes with cash.

No sinking fund is provided for the 2028 Convertible Notes. Upon the occurrence of a fundamental change (as defined in the 2028 Indenture) prior to the maturity date, holders may require the Company to repurchase all or a portion of the 2028 Convertible Notes for cash at a price equal to the principal amount of the 2028 Convertible Notes to be repurchased, plus any accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

In accounting for the issuance of the 2028 Convertible Notes, the Company separated the 2028 Convertible Notes into liability and equity components. The carrying amount of the liability component was calculated by measuring the fair value of a similar debt instrument that does not have an associated convertible feature. The carrying amount of the equity component representing the conversion option was \$66.9 million and was determined by deducting the fair value of the liability component from the par value of the 2028 Convertible Notes. The difference represents the debt discount that is amortized to interest expense at an effective interest rate of 5.125% over the term of the 2028 Convertible Notes. The carrying amount of the equity component was \$39.4 million and is recorded in additional paid-in-capital. The equity component is not remeasured as long as it continues to meet the conditions for equity classification. The excess of the principal amount of the liability component over its carrying amount, or the debt discount, is amortized to interest expense at an annual effective interest rate of 4.959% over the contractual terms of the 2028 Convertible Notes.

In accounting for the transaction costs related to the 2028 Convertible Notes, the Company allocated the total amount incurred to the liability and equity components of the 2028 Convertible Notes based on the proportion of the proceeds allocated to the debt and equity components. Issuance costs attributable to the liability component were approximately \$5.5 million, were recorded as an additional debt discount and are amortized to interest expense using the effective interest method over the contractual terms of the 2028 Convertible Notes. Issuance costs attributable to the equity component of \$2.0 million were netted with the equity component in stockholders' equity.

The net carrying amount of the liability components of the 2026 and 2028 Convertible Notes were as follows:

	As of December 31,	
	2020	2021
	(In thousands)	
2026 Convertible Notes:		
Principal	\$ 400,000	\$ 400,000
Unamortized discount	(110,546)	(92,034)
Unamortized debt issuance costs	(7,258)	(6,043)
2026 Convertible Notes net carrying amount	\$ 282,196	\$ 301,923
2028 Convertible Notes:		
Principal	\$ —	\$ 250,000
Unamortized discount	—	(60,488)
Unamortized debt issuance costs	—	(4,995)
2028 Convertible Notes net carrying amount	\$ —	\$ 184,517
Total net carrying amount	\$ 282,196	\$ 486,440

**Notes to Consolidated Financial Statements (continued)**

The net carrying amount of the equity components of the 2026 and 2028 Convertible Notes were as follows:

	<b>As of December 31,</b>	
	<b>2020</b>	<b>2021</b>
2026 Convertible Notes:	<b>(In thousands)</b>	
Proceeds allocated to the conversion options (debt discount)	\$ 125,152	\$ 125,152
Issuance costs	(3,742)	(3,742)
2026 Convertible Notes net carrying amount	<u>\$ 121,410</u>	<u>\$ 121,410</u>
2028 Convertible Notes:		
Proceeds allocated to the conversion options (debt discount)	\$ —	\$ 66,908
Issuance costs	—	(2,019)
2028 Convertible Notes net carrying amount	<u>\$ —</u>	<u>\$ 64,889</u>
Total net carrying amount	<u>\$ 121,410</u>	<u>\$ 186,299</u>

The following table sets forth the interest expense recognized related to the 2026 and 2028 Convertible Notes:

	<b>Year ended December 31,</b>	
	<b>2020</b>	<b>2021</b>
2026 Convertible Notes:	<b>(In thousands)</b>	
Contractual interest expense	\$ 841	\$ 1,000
Amortization of debt discount	14,606	18,505
Amortization of debt issuance costs	959	1,214
Total interest expense related to the 2026 Convertible Notes	<u>\$ 16,406</u>	<u>\$ 20,719</u>
2028 Convertible Notes:		
Contractual interest expense	\$ —	\$ 991
Amortization of debt discount	—	6,419
Amortization of debt issuance costs	—	532
Total interest expense related to the 2028 Convertible Notes	<u>\$ —</u>	<u>\$ 7,942</u>
Total interest expense	<u>\$ 16,406</u>	<u>\$ 28,661</u>

In connection with the offering of the 2026 Convertible Notes and the 2028 Convertible Notes, the Company entered into privately negotiated capped call transactions with certain counterparties (the “2026 Capped Calls” and the “2028 Capped Calls,” respectively and, collectively, the “Capped Calls”). The 2026 Capped Calls and the 2028 Capped Calls each have an initial strike price of approximately \$91.03 and \$179.27 per share, respectively, subject to certain adjustments, which corresponds to the initial conversion price of the 2026 Convertible Notes and the 2028 Convertible Notes. The 2026 Capped Calls and the 2028 Capped Calls have initial cap prices of \$137.40 and \$260.76 per share subject to certain adjustments, respectively. The 2026 Capped Calls and the 2028 Capped Calls cover, subject to anti-dilution adjustments, approximately 4,394,276 and 1,394,525 shares of Class A common stock for the 2026 Convertible Notes and 2028 Convertible Notes, respectively. The Capped Calls are generally intended to reduce or offset the potential dilution to the Class A common stock upon any conversion of the 2026 Convertible Notes and 2028 Convertible Notes with such reduction or offset, as the case may be, subject to a cap based on the cap price. The Capped Calls expire on the earlier of (i) the last day on which

any convertible securities remain outstanding and (ii) March 1, 2026 for the 2026 Capped Calls and April 1, 2028 for the 2028 Capped Calls, subject to earlier exercise. The Capped Calls are subject to either adjustment or termination upon the occurrence of specified extraordinary events affecting the Company, including a merger event, a tender offer, and a nationalization, insolvency or delisting involving the Company. In addition, the Capped Calls are subject to certain specified additional disruption events that may give rise to a termination of the Capped Calls, including changes in law, insolvency filings, and hedging disruptions. The Capped Call transactions are recorded in stockholders' equity and are not accounted for as derivatives. The net cost of \$43.3 million and \$25.5 million incurred to purchase the 2026 Capped Calls and the 2028 Capped Calls, respectively, was recorded as a reduction to additional paid-in capital in the accompanying consolidated balance sheets.

The Convertible Notes are effectively subordinated to the Company's future senior secured indebtedness, if any, to the extent of the value of the collateral securing that indebtedness. The Convertible notes are the senior, unsecured obligations of the Company and are equal in right of payment with the Company's future senior unsecured indebtedness, if any, senior in right of payment to the Company's existing and future indebtedness that is expressly subordinated to the Convertible Notes and the Convertible Notes will be structurally subordinated to all existing and future indebtedness and other liabilities, including trade payables, and preferred equity, if any, of the Company's subsidiaries.

## 10. Segment and Geographic Information

The Company has two reportable segments, CPaaS and Other. Segments are primarily evaluated based on revenue and gross profit. The Company does not allocate operating expenses, interest expense or income tax expense to its segments. Accordingly, the Company does not report such information. Additionally, the Chief Operating Decision Maker does not evaluate the Company's operating segments using discrete asset information. The segments share the majority of the Company's assets. Therefore, no segment asset information is reported.

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
<b>CPaaS</b>			
Revenue	\$ 197,944	\$ 298,090	\$ 413,948
Cost of revenue	110,343	160,706	217,403
Gross profit	\$ 87,601	\$ 137,384	\$ 196,545
<b>Other</b>			
Revenue	\$ 34,650	\$ 45,023	\$ 76,959
Cost of revenue	14,616	24,546	54,981
Gross profit	\$ 20,034	\$ 20,477	\$ 21,978
<b>Consolidated</b>			
Revenue	\$ 232,594	\$ 343,113	\$ 490,907
Cost of revenue	124,959	185,252	272,384
Gross profit	\$ 107,635	\$ 157,861	\$ 218,523

The Company's long-lived assets were primarily held in the United States as of December 31, 2020 and December 31, 2021. As of December 31, 2020 and December 31, 2021, long-lived assets held outside of the United States were \$11.2 million and \$9.2 million, respectively.

The Company generates its revenue primarily in the United States. Revenue by geographic area is detailed in the table below (which is determined based on the customer billing address):

	Year ended December 31,		
	2019	2020	2021
(In thousands)			
<b>CPaaS</b>			
United States	\$ 192,506	\$ 281,757	\$ 364,412
International	5,438	16,333	49,536
Total	\$ 197,944	\$ 298,090	\$ 413,948
<b>Other</b>			
United States	\$ 33,664	\$ 42,692	\$ 69,051
International	986	2,331	7,908
Total	\$ 34,650	\$ 45,023	\$ 76,959

## 11. Stockholders' Equity

### *Preferred Stock*

As of December 31, 2020 and December 31, 2021, the Company had authorized 10,000,000 shares of undesignated preferred stock, par value \$0.001, of which no shares were issued and outstanding.

### *Common Stock*

As of December 31, 2020 and December 31, 2021, the Company had authorized 100,000,000 shares of Class A common stock, par value \$0.001 per share, with one vote per share and 20,000,000 shares of Class B common stock, par value \$0.001 per share, with ten votes per share.

As of December 31, 2020, 22,413,004 and 2,496,125 shares of Class A common stock and Class B common stock, respectively, were issued and outstanding.

As of December 31, 2021, 23,177,988 and 1,965,170 shares of Class A common stock and Class B common stock, respectively, were issued and outstanding.

Shares of Class B common stock are convertible into shares of Class A common stock upon the stockholder's voluntary written notice to the Company's transfer agent or a transfer by the stockholder, subject to limited exceptions for transfers for estate planning purposes.

### *Voting Rights*

The holders of Class A common stock and Class B common stock have identical rights, except that holders of Class A voting common stock are entitled to one vote per share of Class A common stock and holder of Class B common stock are entitled to ten votes per share of Class B common stock.

### *Dividends*

Any dividends or distributions paid or payable to the holders of shares of Class A common stock and Class B common stock shall be paid pro-rata, on an equal priority. During the years ended December 31, 2019, 2020 and 2021, no dividends were declared. Dividend payments are not subject to restriction.

**Reserved Shares**

The Company had reserved shares of Class A common stock for issuance under stock-based award agreements as follows:

	As of December 31,	
	2020	2021
Stock options issued and outstanding	255,000	180,209
Nonvested restricted stock units issued and outstanding	450,614	344,486
Stock-based awards available for grant under the 2017 Plan	2,020,342	3,060,674
	2,725,956	3,585,369

**12. Stock Based Compensation****2010 Stock Option Plan**

As of July 26, 2010, the Company adopted the 2010 Equity Compensation Plan (the “2010 Plan”). On November 9, 2017, the 2010 Plan was terminated in connection with the Company’s initial public offering. Accordingly, no shares are available for future issuance under the 2010 Plan. However, the 2010 Plan continues to govern the terms and conditions of the outstanding awards granted thereunder.

**2017 Incentive Award Plan**

The Company’s 2017 Incentive Award Plan (the “2017 Plan”) became effective on November 9, 2017. The 2017 Plan provides for the grant of stock options, including incentive stock options and non-qualified stock options, stock appreciation rights, restricted stock, dividend equivalents, restricted stock units, and other stock or cash based awards to employees, consultants and directors of the Company. A total of 1,050,000 shares of the Company’s Class A common stock were originally reserved for issuance under the 2017 Plan. These available shares automatically increase each January 1, beginning on January 1, 2018, by 5% of the number of shares of the Company’s Class A common stock outstanding on the final day of the immediately preceding calendar year. On January 1, 2021, the shares available for grant under the 2017 Plan were automatically increased by 1,120,650 shares.

The terms of the stock option grants are determined by the Company’s Board of Directors. The Company’s stock options vest based on terms of the stock option agreements, which is generally over four years. The stock options have a contractual life of ten years.

Restricted stock units (“RSUs”) granted under the 2017 Plan are generally subject to a time-based vesting condition. The compensation expense related to these awards is based on the grant date fair value of the RSUs and is recognized on a ratable basis over the applicable service period. The Company granted RSUs to its non-employee members of the Board of Directors, some of which vested immediately while others vest 25% as of each calendar quarter immediately following the grant date. Certain RSUs awarded to executives vest over four years with 50% vesting in the first year in 12.5% increments on each calendar quarter immediately following the grant date and the remaining 50% earned over years two, three and four. Other RSUs awarded to executives and employees generally are earned over a service period of four years.

**Stock Options**

The following summarizes the stock option activity for the period presented:

	Number of options outstanding	Weighted- average exercise price (Per share)	Weighted- average remaining contract life (In years)	Aggregate intrinsic value (In thousands)
Outstanding as of December 31, 2020	255,000	\$ 10.82	4.42	\$ 36,426
Granted	—	—		
Exercised	(73,985)	12.47		
Forfeited or cancelled	(806)	10.49		
Outstanding as of December 31, 2021	<u>180,209</u>	\$ 10.14	3.39	\$ 11,104
Options vested and exercisable at December 31, 2021	<u>180,209</u>	\$ 10.14	3.39	\$ 11,104
Options vested and expected to vest as of December 31, 2021	<u>180,209</u>	\$ 10.14	3.39	\$ 11,104

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Aggregate intrinsic value of stock options exercised	\$ 57,159	\$ 54,088	\$ 9,297
Total estimated grant date fair value of options vested	729	416	247

Aggregate intrinsic value is computed based on the difference between the option exercise price and the fair value of the Company's common stock as of December 31, 2021, based on the Company's Class A common stock price as reported on the NASDAQ Global Select Market.

No options were granted for the year ended December 31, 2021.

As of December 31, 2021, the Company had no unrecognized compensation cost related to non-vested stock options. All outstanding stock options are fully vested.

**Restricted Stock Units**

The following summarizes the RSU activity for the period presented:

	Number of awards outstanding	Weighted-average grant date fair value (Per share)
Nonvested RSUs as of December 31, 2020	450,614	\$ 51.58
Granted	154,360	143.31
Vested	(186,502)	67.40
Forfeited or cancelled	(73,986)	74.84
Nonvested RSUs as of December 31, 2021	<u>344,486</u>	\$ 82.38

As of December 31, 2021, total unrecognized compensation cost related to non-vested RSUs was \$21.6 million, which will be amortized over a weighted-average period of 2.71 years.

**Stock-Based Compensation Expense**

The Company recognized total stock-based compensation expense as follows:

	Year ended December 31,		
	2019	2020	2021
	(In thousands)		
Cost of revenue	\$ 211	\$ 208	\$ 252
Research and development	1,461	2,118	2,648
Sales and marketing	1,199	1,525	1,890
General and administrative	3,755	6,030	9,747
Total	<u>\$ 6,626</u>	<u>\$ 9,881</u>	<u>\$ 14,537</u>

**13. Commitments and Contingencies****Operating Leases**

The Company leases office space under operating lease agreements that expire over the next 5 years. See Note 6, “Right-of-Use Asset and Lease Liabilities” to the consolidated financial statements, for additional details on the Company’s operating lease commitments.

**Contractual Obligations**

On October 25, 2015, the Company entered into an agreement with a telecommunications service provider. The service agreement requires the Company to pay a monthly recurring charge associated with the services received. The service agreement is non-cancellable and contains annual minimum commitments. On August 1, 2020, the Company amended the agreement to require annual minimum commitments of \$0.6 million and \$0.3 million in 2021 and 2022, respectively. In addition, as of December 31, 2021, the Company has \$18.1 million in other non-cancellable purchase obligations, consisting of primarily network equipment maintenance and software license contracts, of which \$13.2 million will be fulfilled within one year.

On May 27, 2021, the Company entered into the Lease with the Developer for the Conveyed Parcel, together with the Project. The respective obligations of the Company and the Developer under the Lease were conditioned upon the Developer acquiring fee simple title to the Conveyed Parcel, which occurred on June 4, 2021. The Lease term will commence upon the Commencement Date and continue for the Initial Term. It is anticipated that the Commencement Date will occur in May 2023. If the Commencement Date does not occur within one hundred twenty (120) days from the scheduled Commencement Date, the Company shall be entitled to certain rent abatements, as described in the Lease. If the Commencement Date is not delivered within twelve (12) months of the scheduled Commencement Date, the Company may terminate the Lease.

The Company has the option to renew the Initial Term for two ten-year periods. Base rent payments will begin on the Commencement Date. The initial base rent will increase by 1.85% on each anniversary of the Commencement Date. Total lease payments over the Initial Term are approximately \$495.7 million. See Note 6, “Right-of-Use Asset and Lease Liabilities” to the consolidated financial statements, for additional details on the Company's operating lease commitments.

On December 7, 2021, the Company entered into a non-cancelable operating lease agreement for its London, UK, facilities. The lease term commenced on January 1, 2022 and will continue for the initial term of 24 months. Total lease payments over the initial term are approximately \$3.6 million. The lease will automatically renew on a month by month basis after the initial lease term.



**Legal Matters**

The Company is involved as a defendant in various litigation, including, but not limited to, lawsuits alleging that the Company failed to bill, collect and remit certain taxes and surcharges associated with the provision of 911 services pursuant to applicable laws in various jurisdictions.

While the results of these legal proceedings cannot be predicted with certainty, in the opinion of management, the ultimate resolution of these matters will not have a material adverse effect on the Company's financial position or results of operations.

**14. Employee Benefit Plans**

The Company sponsors a U.S. defined contribution 401(k), which allows eligible U.S.-based employees to defer a portion of their compensation. The Company, at its discretion, may make matching contributions. With the acquisition of Voxbone S.A. on November 1, 2020, the Company assumed sponsorship for Voxbone S.A.'s U.S. defined contribution 401(k). In connection with that acquisition, the Company also assumed sponsorship for a non-U.S. defined contribution plan for which it pays fixed contributions into a separate entity. The Company has no legal or constructive obligations to pay further contributions if the fund does not hold sufficient assets to pay all employees the benefits relating to employee service in the current or prior periods. The contributions are recognized as employee benefit expense when they are due. The Company made matching contributions for the defined contribution plans of \$1.7 million, \$2.2 million, and \$3.8 million for the years ended December 31, 2019, 2020 and 2021, respectively.

In addition, as a result of the acquisition of Voxbone S.A., the Company assumed sponsorship for Voxbone S.A.'s non-U.S. defined benefit pension plans. The liability recognized is the present value of the defined benefit obligation at the end of the reporting period less the fair value of the plan assets and is included in other liabilities in the accompanying consolidated balance sheets. The defined benefit obligation is calculated annually by an independent actuary using the Projected Unit Credit Method.

The following table summarizes information for the pension plans:

**Notes to Consolidated Financial Statements (continued)**

	As of December 31,	
	2020	2021
	(In thousands)	
<b>Change in benefit obligation:</b>		
Benefit obligation at beginning of year	\$ —	\$ 4,064
Service cost	75	396
Interest cost	3	21
Actuarial loss (gain)	15	(237)
Taxes, insurance premiums and administrative expenses	(9)	(55)
Acquisitions/plan mergers	3,980	—
Impact of foreign currency translation	—	(315)
<b>Benefit obligation at end of year</b>	<b>\$ 4,064</b>	<b>\$ 3,874</b>
<b>Change in plan assets:</b>		
Fair value of plan assets at beginning of year	\$ —	\$ 2,882
Return on plan assets	8	14
Actuarial gain	2	6
Employer contribution	57	335
Acquisitions/plan mergers	2,824	—
Taxes, insurance premiums and administrative expenses	(9)	(55)
Impact of foreign currency translation	—	(224)
<b>Fair value of plan assets at end of year</b>	<b>2,882</b>	<b>2,958</b>
<b>Funded status, net liability</b>	<b>\$ 1,182</b>	<b>\$ 916</b>

The following table presents the balance sheet location of the Company's pension liability for the Company's non-U.S. defined benefit pension plans:

	As of December 31,	
	2020	2021
	(In thousands)	
<b>Other liabilities</b>	<b>\$ 1,182</b>	<b>\$ 916</b>

The following table summarizes information for the Company's pension plans with an accumulated benefit obligation in excess of plan assets:

	As of December 31,	
	2020	2021
	(In thousands)	
<b>Projected benefit obligation</b>	<b>\$ 4,064</b>	<b>\$ 3,874</b>
<b>Accumulated benefit obligation</b>	<b>3,450</b>	<b>3,282</b>
<b>Fair value of plan assets</b>	<b>2,882</b>	<b>2,958</b>

The Company reports the service cost component of net periodic benefit cost in the same line item as other compensation costs arising from the services rendered by the employee and records the other components of net periodic benefit cost in other expense, net.

## Notes to Consolidated Financial Statements (continued)

Pretax amounts for net periodic benefit cost and other amounts for the defined benefit pension plans consisted of the following components:

	Year ended December 31,	
	2020	2021
	(In thousands)	
Service cost	\$ 75	\$ 396
Interest cost	3	21
Return on plan assets	(8)	(14)
Net periodic pension cost	70	403
Changes in plan assets and benefit obligations included in other comprehensive income (loss):		
Unrecognized net actuarial loss beginning of year	—	17
Actuarial loss (gain) on benefit obligation	15	(237)
Actuarial loss (gain) on fair value of plan assets	2	(6)
Impact of foreign currency translation	—	(1)
Total included in other comprehensive income (loss) (before tax effect)	17	(227)
Total recognized in net periodic benefit cost and included in other comprehensive income (loss)	\$ 87	\$ 176

The Company uses significant judgment to determine the measurement of their non-U.S. defined benefit pension plans' assets and liabilities. These amounts are calculated by an independent actuary. The present value of the defined benefit obligation depends on a number of factors that are determined on an actuarial basis using a number of assumptions. Any change in these assumptions will impact the present value of the defined benefit obligation.

The actuarial gains and losses recognized in the pension expense are determined using the so-called "10% corridor" method, i.e. actuarial gains and losses which exceed 10% of the higher of the plan assets and the projected benefit obligation are amortized on a straight line basis over the average remaining service period of the active plan participants. Any prior service costs are amortized on a straight line basis over the average remaining service period of the active plan participants.

The Company determines the appropriate discount rate at the end of each year. This is the interest rate that should be used to determine the present value of estimated future cash outflows expected to be required to settle the pension obligations. In determining the appropriate discount rate, the Company considers the interest rates of high-quality corporate bonds that are denominated in the currency in which the benefits will be paid, and that have terms to maturity approximating the terms of the related obligation. The other assumptions for pension obligations are based in part on market conditions.

Significant assumptions used in determining benefit obligations and net periodic benefit cost are as follows:

	Year ended December 31,	
	2020	2021
Defined benefit obligations:		
Discount rate	0.50 %	0.90 %
Rate of salary increase	4.07 %	4.27 %
Inflation	1.60 %	1.80 %
Defined benefit cost:		
Discount rate	1.50 %	0.90 %
Rate of salary increase	4.37 %	4.27 %
Rate of return on plan assets	0.50 %	0.90 %
Inflation	1.90 %	1.80 %

### Plan Assets

The Company's non-U.S. defined benefit plans are insured by a third party. The investments are governed by the insurer, who oversees all investment decisions. The insurance contracts are classified as Level 2 because a portion of the underlying funds are valued using significant other observable inputs. The insurance contracts provide for a guaranteed interest credit and a profit-sharing adjustment based on the actual performance of the underlying investment assets of the insurer. The fair value of the contract is determined by the insurer based on the premiums paid by the Company plus interest credits plus the profit-sharing adjustment less benefit payments.

The major categories of plan assets are as follows:

	As of December 31,	
	2020	2021
	(In thousands)	
Assets held by:		
Insurance companies (collective and individual)	\$ 2,882	\$ 2,958

### Expected Cash Flows

The Company expects to contribute \$0.3 million to its non-U.S. defined benefit pension plans during 2022.

The following table summarizes projected benefit payments from the Company's pension plans through 2031, including benefits attributable to estimated future service:

	As of December 31, 2021	
	(In thousands)	
2022	\$	4
2023		4
2024		31
2025		4
2026		6
2027-2031		34
	\$	<u>83</u>

## 15. Income Taxes

The following table presents domestic and foreign components of loss before income taxes for the tax years ended December 31, 2019, 2020 and 2021:

	Year Ended December 31,		
	2019	2020	2021
	(In thousands)		
United States	\$ (15,229)	\$ (25,745)	\$ (27,547)
International	5	(3,227)	(3,648)
Loss before income taxes	<u>\$ (15,224)</u>	<u>\$ (28,972)</u>	<u>\$ (31,195)</u>

Benefit (provision) for income taxes from operations consists of the following:

	Year Ended December 31,		
	2019	2020	2021
	(In thousands)		
<b>Current:</b>			
Federal	\$ 81	\$ 431	\$ (2,713)
State	132	(87)	(145)
Foreign	3	(1,083)	(1,627)
Total	<u>216</u>	<u>(739)</u>	<u>(4,485)</u>
<b>Deferred:</b>			
Federal	15,205	(9,847)	(364)
State	2,297	(5,176)	—
Foreign	—	757	8,682
Total	<u>17,502</u>	<u>(14,266)</u>	<u>8,318</u>
Income tax benefit (provision)	<u>\$ 17,718</u>	<u>\$ (15,005)</u>	<u>\$ 3,833</u>

The following table presents a reconciliation of the statutory federal tax rate and the Company's effective tax rate for the years ended December 31, 2019, 2020 and 2021:

	Year Ended December 31,		
	2019	2020	2021
Federal Tax Rate	21.0 %	21.0 %	21.0 %
State Tax Rate	3.1	2.0	2.8
Non-deductible expenses	(1.6)	(9.2)	(4.4)
Research credit	7.2	10.5	6.2
Stock-based compensation	88.6	46.8	13.9
Change in valuation allowance	—	(123.4)	16.3
Deferred tax rate change	(0.3)	0.2	(0.2)
Voxbone US 338(g) gain	—	—	(8.9)
Intangibles and deferred adjustments	—	—	(40.2)
Foreign rate differential	—	—	1.3
Other	(1.6)	0.3	4.5
Total	116.4 %	(51.8)%	12.3 %

The following table presents the significant components of the Company's net deferred tax liability:

	As of December 31,	
	2020	2021
	(In thousands)	
Deferred tax assets:		
Allowance for doubtful accounts	\$ 134	\$ 262
Accrued liabilities	3,478	3,412
Operating lease liabilities	4,878	3,456
Deferred revenue	1,702	1,880
Stock-based compensation - deferred tax asset	1,968	2,278
OID	9,433	8,848
Tax credits	7,270	9,214
Net operating losses	47,385	50,285
Other deferred tax assets	2,207	4,166
<b>Total deferred tax assets</b>	<b>78,455</b>	<b>83,801</b>
Less: valuation allowance	(37,771)	(32,224)
<b>Net deferred tax assets</b>	<b>40,684</b>	<b>51,577</b>
Deferred tax liabilities:		
Property and equipment	8,038	7,813
Goodwill	989	1,130
Intangibles	60,667	49,470
Operating lease assets	4,092	2,860
Debt	27,766	38,411
Other liability	137	289
<b>Total deferred tax liabilities</b>	<b>101,689</b>	<b>99,973</b>
<b>Net deferred tax liability</b>	<b>\$ (61,005)</b>	<b>\$ (48,396)</b>

The Company's accounting for deferred taxes involves the evaluation of a number of factors concerning the realizability of its net deferred tax assets. The Company primarily considered the historic performance of Bandwidth, the nature of the Company's deferred tax assets and the timing, likelihood and amount, if any, of future taxable income during the periods in which those temporary differences and carryforwards become deductible. Based on an analysis of these factors, the Company maintained that in 2021 a valuation allowance against US deferred tax assets was required.

As of December 31, 2021, the Company had approximately \$195.5 million in US federal net operating loss carryforwards, \$5.6 million in UK loss carryforwards, and \$9.2 million in federal tax credits. All US federal net operating loss carryforwards were generated after the enactment of the Tax Cuts and Jobs Act (the "Act") and as such do not expire, but can only be utilized to offset up to 80% of taxable income in any given year. The federal tax credits start to expire at various dates beginning in 2032.

As of December 31, 2021, the Company had approximately \$138.1 million in state net operating loss carryforwards. If not utilized, some state net operating loss carryforwards will expire at various dates beginning in 2023.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	Year Ended December 31,	
	2020	2021
	(In thousands)	
Unrecognized tax benefits—January 1,	\$ 1,398	\$ 2,414
Gross increases—tax positions in prior period	402	—
Gross increases—tax positions in current period	614	648
Unrecognized tax benefits—December 31,	<u>\$ 2,414</u>	<u>\$ 3,062</u>

If the \$3.1 million of unrecognized tax benefit is recognized, it would not impact the effective tax rate due to the valuation allowance on the Company's net U.S. deferred tax assets.

The Company has not incurred any material tax interest or penalties with respect to income taxes in the years ended December 31, 2020 and 2021.

The Company expects no material changes in the twelve months following December 31, 2021 in its uncertain tax positions.

The Company files U.S. federal income tax returns as well as income tax returns in many U.S. states and foreign jurisdictions. The tax years 2018 - 2020 remain open to examination by the major jurisdictions in which the Company is subject to tax.

## 16. Related Parties

On April 20, 2015, the Company created a wholly owned subsidiary, Relay, Inc. (f/k/a Republic Wireless, Inc.) ("Relay"), which was incorporated in Delaware. On November 30, 2016, the Company completed a pro-rata distribution of the common stock of Relay to its stockholders of record as of the close of business (the "Spin-Off"). In connection with the Spin-Off on November 30, 2016, the Company and Relay entered into certain agreements in order to govern the ongoing relationships between the two companies after the Spin-Off and to provide for an orderly transition. The agreements include a Transition Services Agreement, Facilities Sharing Agreement, Tax Sharing Agreement, and Master Services Agreement. The equity holders of Bandwidth pre-initial public offering are comprised of substantially the same individuals and entities that are the equity owners of Relay. The Company has determined the equity owners of Relay are related parties of Bandwidth. The Company has certain involvement with Relay via ongoing services arrangements, with these ongoing services arrangements creating a variable interest in Relay. The Company assessed the relationship with Relay under guidance for variable interest entities ("VIE"). Because investors in Relay have disproportionate voting rights, the Company concluded that Relay is a VIE, but Bandwidth is not a primary beneficiary. The Company's maximum exposure to loss relating to this VIE is limited to amounts due under the service agreements between the Company and Relay.

The Company recorded a reduction of rent expense under the Facilities Sharing Agreement of \$0.6 million, \$0.4 million, and \$0.4 million for the years ended December 31, 2019, 2020 and 2021, respectively, which is included in general and administrative expenses in the consolidated statements of operations. No amounts were due to the Company under the Facilities Sharing Agreement as of December 31, 2020 and December 31, 2021.

The Tax Sharing Agreement governs rights and obligations after the Spin-Off regarding income taxes and other taxes, including tax liabilities and benefits, attributes, returns and contests. There were no amounts outstanding or payable under this agreement as of December 31, 2020 and December 31, 2021.

The Master Services Agreement specifies certain wholesale telecommunications services to be provided by the Company. The agreement is cancellable at any time by either party. The Company provided telecommunication services to Relay of \$2.6 million, \$2.2 million, and \$1.8 million for the years ended December 31, 2019, 2020 and



2021, respectively. The Company recognized such amounts as revenue in the accompanying consolidated statements of operations. As of December 31, 2020 and December 31, 2021, the Company had a receivable of \$0.2 million and \$0.1 million, respectively, under the Master Services Agreement.

Subsequent to the expiration of the 180-day IPO blackout window on May 9, 2018, Relay employees that held Bandwidth stock options began exercising their options. Upon exercise, Bandwidth withholds the employee tax amounts due from the proceeds. Bandwidth had collected on behalf of, and remitted withholding tax to, Relay of \$1.8 million, \$1.4 million, and \$0.4 million for the years ended December 31, 2019, 2020 and 2021, respectively. As of December 31, 2020 and December 31, 2021, the Company had no amounts that were due to Relay.

On September 30, 2019, the Company entered into a services agreement with Relay. Pursuant to the terms of the new agreement, Relay receives services performed by the Company's legal department, effective September 30, 2019. The Company is compensated by Relay for these services based on costs incurred by the Company. The Company received net compensation of less than \$0.1 million for the years ended December 31, 2019 and 2021. The Company received net compensation of \$0.1 million for the year ended December 31, 2020, which is included in general and administrative expenses in the consolidated statements of operations. As of December 31, 2020 and December 31, 2021, the Company had receivables of less than \$0.1 million under this agreement.

#### **17. Basic and Diluted Income (Loss) per Common Share**

Basic net income (loss) per share is computed by dividing net income (loss) by the weighted-average number of shares of common stock outstanding during the period. Diluted net income (loss) per share is computed by giving effect to all potential shares of common stock, including stock options and stock related to unvested restricted stock awards.

The components of basic and diluted income (loss) per share are as follows:

	Year ended December 31,		
	2019	2020	2021
	(In thousands, except share and per share amounts)		
<i>Earnings per share</i>			
Net income (loss) attributable to common stockholders	\$ 2,494	\$ (43,977)	\$ (27,362)
Net income (loss) per share:			
Basic	\$ 0.11	\$ (1.83)	\$ (1.09)
Diluted	\$ 0.10	\$ (1.83)	\$ (1.09)
<i>Weighted average number of common shares outstanding</i>			
Basic	22,640,461	24,092,574	25,090,916
Dilutive effect of stock options, restricted stock units, and warrants	1,283,316	—	—
Diluted	23,923,777	24,092,574	25,090,916

The following common share equivalents were excluded from the weighted average shares used to calculate net loss per common share because their effects would have been anti-dilutive:

	As of December 31,		
	2019	2020	2021
Stock options issued and outstanding	—	255,000	180,209
Restricted stock units issued and outstanding	—	450,614	344,486
Convertible senior notes <sup>(1)</sup>	—	1,022,941	987,149
Total	—	1,728,555	1,511,844

<sup>(1)</sup> As of December 31, 2020 and December 31, 2021, the Company used the treasury stock method to calculate the dilutive impact of the 2026 and 2028 Convertible Notes because at that time the Company expected to settle the principal amount of these notes in cash and any excess in shares of the Company's Class A common stock. As of December 31, 2020 and December 31, 2021, the conversion spread, calculated using the average market price of Class A common stock during the period consistent with the treasury stock method, had a dilutive impact for the 2026 Convertible Notes on diluted net income per share of Class A common stock when the average market price of the Company's Class A common stock for a given period exceeded the conversion price of \$91.03 per share. As of December 31, 2021, the conversion spread for the 2028 Convertible Notes was anti-dilutive as the average market price of the Company's Class A common stock for a given period did not exceed the conversion price of \$179.27 per share.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

## Item 9A. Controls and Procedures

### *Evaluation of disclosure controls and procedures*

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, have evaluated our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this Annual Report on Form 10-K. Based on that evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that, as of the end of the period covered by this Annual Report on Form 10-K, our disclosure controls and procedures are designed at a reasonable assurance level and are effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

### *Management's Annual Report on Internal Control Over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2021 based on the guidelines established in the Internal Control—Integrated Framework (2013 framework) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Our internal control over financial reporting includes policies and procedures that provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with GAAP. Based on the results of our evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2021.

The effectiveness of our internal control over financial reporting as of December 31, 2021 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in its report which is included in Item 8 of this Annual Report on Form 10-K.

### *Changes in internal control over financial reporting*

There were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act during the quarter ended December 31, 2021, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### *Inherent limitation on the effectiveness of internal control*

The effectiveness of any system of internal control over financial reporting, including ours, is subject to inherent limitations, including the exercise of judgment in designing, implementing, operating, and evaluating the controls and procedures, and the inability to eliminate misconduct completely. Accordingly, any system of internal control over financial reporting, including ours, no matter how well designed and operated, can only provide reasonable, not absolute assurances. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. We intend to continue to monitor and upgrade our internal controls as necessary or appropriate for our business, but cannot assure you that such improvements will be sufficient to provide us with effective internal control over financial reporting.

**Item 9B. Other Information.**

Not applicable.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

Not Applicable.

**PART III**

**Item 10. Directors, Executive Officers and Corporate Governance**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the fiscal year ended December 31, 2021.

**Codes of Business Conduct and Ethics**

Our board of directors has adopted a Code of Business Conduct and Ethics that applies to all officers, directors and employees, which is available on our website at (<https://investors.bandwidth.com/corporate-governance/governance-overview>) under “Governance Documents”. We intend to satisfy the disclosure requirement under Item 5.05 of Form 8-K regarding amendments to, or waiver from, a provision of our Code of Business Conduct and Ethics and by posting such information on the website address and location specified above.

**Item 11. Executive Compensation**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the fiscal year ended December 31, 2021.

**Item 12. Security Ownership of Certain Beneficial Owners and Management Related Stockholder Matters**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the fiscal year ended December 31, 2021.

**Item 13. Certain Relationships and Related Transactions and Director Independence**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the fiscal year ended December 31, 2021.

**Item 14. Principal Accountant Fees and Services**

Our independent registered public accounting firm is Ernst & Young LLP, Raleigh, NC, Auditor Firm ID: 42.

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2022 Annual Meeting of Shareholders. The Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the fiscal year ended December 31, 2021.

**PART IV****Item 15. Exhibits and Financial Statement Schedules**

(a) The following documents are filed as part of this report:

1. Financial Statements

See Index to Financial Statements at Item 8 herein.

2. Financial Statement Schedules

Schedules not listed above have been omitted because they are not required, not applicable, or the required information is otherwise included.

3. Exhibits

**Exhibit Index**

<b>Exhibit number</b>	<b>Description of Exhibit</b>	<b>Form</b>	<b>File No.</b>	<b>Exhibit</b>	<b>Filing Date</b>
<a href="#">2.1</a>	Reorganization Agreement, dated as of November 30, 2016, by and between Bandwidth.com, Inc. and Republic Wireless, Inc.	S-1	333-220945	2.1	10/13/2017
<a href="#">2.2</a>	Share Purchase Agreement, by and between Bandwidth Inc. and Voicebox S.à r.l, Mr Itay Rosenfeld, Mr Stefaan Konings, Mr Dirk Hermans, Mr Gaetan Brichet and Stichting Administratiekantoor Voice, dated October 12, 2020.	8-K	001-38285	2.1	10/13/2020
<a href="#">3.1</a>	Second Amended and Restated Certificate of Incorporation.	Q3 10-Q	001-38285	3.1	12/14/2017
<a href="#">3.2</a>	Second Amended and Restated Bylaws.	Q3 10-Q	001-38285	3.2	12/14/2017
<a href="#">4.1</a>	Investors' Rights Agreement.	S-1	333-220945	4.2	10/13/2017
<a href="#">4.2</a>	Form of Buy-Sell Agreement.	S-1	333-220945	4.3	10/13/2017
<a href="#">4.3</a>	Description of Registrant's Securities.				Filed herewith
<a href="#">4.4</a>	Indenture, dated February 28, 2020, between Bandwidth Inc. and Wilmington Trust, National Association	8-K	001-38285	4.1	3/2/2020
<a href="#">4.5</a>	Form of 0.250% Convertible Senior Notes due March 1, 2026 (included as Exhibit A to Exhibit 4.1)	8-K	001-38285	4.2	3/2/2020
<a href="#">4.6</a>	Indenture, dated March 16, 2021, between Bandwidth Inc. and Wilmington Trust, National Association.	8-K	001-38285	4.1	3/16/2021
<a href="#">4.7</a>	Form of 0.50% Convertible Senior Notes due April 1, 2028 (included as Exhibit A to Exhibit 4.1).	8-K	001-38285	4.2	3/16/2021
<a href="#">10.1</a>	Form of Indemnification and Advancement Agreement between Bandwidth Inc. and its directors and certain officers.				Filed herewith
<a href="#">10.2</a>	2010 Equity Compensation Plan and forms of awards thereunder.	S-1	333-220945	10.4	10/13/2017
<a href="#">10.3</a>	Employment Agreement, dated as of January 1, 2015, as amended on March 9, 2017, by and between Bandwidth.com, Inc. and David A. Morken.	S-1	333-220945	10.8	10/13/2017
<a href="#">10.4</a>	Office Lease, by and between Venture Center LLC and Bandwidth.com, Inc., dated January 22, 2013, as amended to date.	S-1	333-220945	10.11	10/13/2017
<a href="#">10.5</a>	Sublease, by and between Allied Telesis Capital Corporation and Bandwidth.com, Inc., dated December 1, 2015.	S-1	333-220945	10.12	10/13/2017

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<a href="#">10.6</a>	Facilities Sharing Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated November 30, 2016.	S-1	333-220945	10.13	10/13/2017
<a href="#">10.7</a>	Transition Services Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated November 30, 2016.	S-1	333-220945	10.14	10/13/2017
<a href="#">10.8</a>	Transition Services Agreement, by and between Republic Wireless, Inc. and Bandwidth.com, Inc., dated November 30, 2016.	S-1	333-220945	10.15	10/13/2017
<a href="#">10.9</a>	Tax Sharing Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated November 30, 2016.	S-1	333-220945	10.16	10/13/2017
<a href="#">10.10</a>	Employee Matters Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated November 30, 2016.	S-1	333-220945	10.17	10/13/2017
<a href="#">10.11</a>	Master Services Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated November 30, 2016.	S-1	333-220945	10.18	10/13/2017
<a href="#">10.12</a>	Master Service Agreement, by and between Level 3 Communications, LLC and Bandwidth.com, Inc, dated March 14, 2008, as amended to date.	S-1	333-220945	10.19	10/13/2017
<a href="#">10.13</a>	Form of Conversion Lock-up Agreement between Bandwidth Inc. and the Key Holders.	S-1A	333-220945	10.2	10/30/2017
<a href="#">10.14</a>	2017 Incentive Award Plan, and forms of award agreements thereunder.	S-1A	333-220945	10.21	10/30/2017
<a href="#">10.15</a>	Office Lease, by and between Keystone-Centennial II, LLC and Bandwidth.com, Inc., dated January 12, 2018.	10-K	001-38285	10.22	2/26/2018
<a href="#">10.16</a>	Office Lease, by and between WP Propco III, LLC and Bandwidth Inc., dated January 1, 2019, Venture III amendment.	10-K	001-38285	10.23	2/15/2019
<a href="#">10.17</a>	Office Lease, by and between WP Propco III, LLC and Bandwidth Inc., dated January 1, 2019, Venture I amendment.	10-K	001-38285	10.24	2/15/2019
<a href="#">10.18</a>	Credit and Security Agreement, dated as of November 4, 2016 as amended and restated as of March 1, 2019, among Bandwidth Inc., KeyBank National Association, and KeyBanc Capital Markets Inc.	8-K	001-38285	10.1	3/04/2019
<a href="#">10.19</a>	Employment Agreement, dated April 10, 2019, between the Company and Jeffrey A. Hoffman.	8-K	001-38285	10.1	4/12/2019
<a href="#">10.20</a>	Amended Facilities Sharing Agreement, by and between Bandwidth.com, Inc. and Republic Wireless, Inc., dated May 29, 2019.	8-K	001-38285	10.1	6/3/2019
<a href="#">10.21</a>	Bill of Sale, dated May 29, 2019.	8-K	001-38285	10.2	6/3/2019
<a href="#">10.22</a>	Assignment and Acceptance Agreement, between KeyBank National Association and Pacific Western Bank, dated June 4, 2019.	10-Q	001-38285	10.4	8/2/2019
<a href="#">10.23</a>	Revenue Commitment Schedule, by and between Bandwidth Inc. and Republic Wireless, Inc., dated July 1, 2019.	10-Q	001-38285	10.5	8/2/2019
<a href="#">10.24</a>	Services Agreement, by and between Bandwidth Inc. and Republic Wireless, Inc. dated September 30, 2019.	10-Q	001-38285	10.1	11/7/2019
<a href="#">10.25</a>	Employment Agreement, dated as of December 6, 2019, by and between Bandwidth.com, Inc. and Rebecca Bottorff.	10-K	001-38285	10.30	2/21/2020
<a href="#">10.26</a>	Confirmation of Base Capped Call Transaction, dated February 25, 2020, between Bandwidth Inc. and Barclays Bank PLC.	8-K	001-38285	10.1	3/2/2020
<a href="#">10.27</a>	Confirmation of Base Capped Call Transaction, dated February 25, 2020, between Bandwidth Inc. and JPMorgan Chase Bank, National Association, New York Branch.	8-K	001-38285	10.2	3/2/2020

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<a href="#">10.28</a>	Confirmation of Base Capped Call Transaction, dated February 25, 2020, between Bandwidth Inc. and Bank of Montreal.	8-K	001-38285	10.3	3/2/2020
<a href="#">10.29</a>	Confirmation of Base Capped Call Transaction, dated February 25, 2020, between Bandwidth Inc. and Morgan Stanley & Co. LLC.	8-K	001-38285	10.4	3/2/2020
<a href="#">10.30</a>	Confirmation of Base Capped Call Transaction, dated February 25, 2020, between Bandwidth Inc. and Goldman Sachs & Co. LLC.	8-K	001-38285	10.5	3/2/2020
<a href="#">10.31</a>	Confirmation of Additional Capped Call Transaction, dated February 26, 2020, between Bandwidth Inc. and Barclays Bank PLC.	8-K	001-38285	10.6	3/2/2020
<a href="#">10.32</a>	Confirmation of Additional Capped Call Transaction, dated February 26, 2020, between Bandwidth Inc. and JPMorgan Chase Bank, National Association, New York Branch.	8-K	001-38285	10.7	3/2/2020
<a href="#">10.33</a>	Confirmation of Additional Capped Call Transaction, dated February 26, 2020, between Bandwidth Inc. and Bank of Montreal.	8-K	001-38285	10.8	3/2/2020
<a href="#">10.34</a>	Confirmation of Additional Capped Call Transaction, dated February 26, 2020, between Bandwidth Inc. and Morgan Stanley & Co. LLC.	8-K	001-38285	10.9	3/2/2020
<a href="#">10.35</a>	Confirmation of Additional Capped Call Transaction, dated February 26, 2020, between Bandwidth Inc. and Goldman Sachs & Co. LLC.	8-K	001-38285	10.10	3/2/2020
<a href="#">10.36</a>	Purchase and Sale Agreement with the State of North Carolina, dated June 15, 2020.	8-K	001-38285	10.1	6/17/2020
<a href="#">10.37</a>	Management Warranty Deed, by and between Bandwidth Inc. and Mr Itay Rosenfeld, Mr Stefaan Konings, Mr Dirk Hermans and Mr Gaetan Brichet, dated October 12, 2020.	8-K	001-38285	10.1	10/13/2020
<a href="#">10.38</a>	Registration Rights Agreement, by and between Bandwidth Inc. and Voicebox S.á r.l, dated October 12, 2020.	8-K	001-38285	10.2	10/13/2020
<a href="#">10.39</a>	Employment Agreement, dated January 13, 2021, between the Company and Marina C. Carreker.	8-K	001-38285	10.1	1/15/2021
<a href="#">10.40</a>	Confirmation of Base Capped Call Transaction, dated March 11, 2021, between Bandwidth Inc. and Bank of Montreal.	8-K	001-38285	10.1	3/16/2021
<a href="#">10.41</a>	Confirmation of Base Capped Call Transaction, dated March 11, 2021, between Bandwidth Inc. and Citibank, N.A.	8-K	001-38285	10.2	3/16/2021
<a href="#">10.42</a>	Confirmation of Base Capped Call Transaction, dated March 11, 2021, between Bandwidth Inc. and Goldman Sachs & Co. LLC.	8-K	001-38285	10.3	3/16/2021
<a href="#">10.43</a>	Confirmation of Base Capped Call Transaction, dated March 11, 2021, between Bandwidth Inc. and Morgan Stanley & Co. LLC.	8-K	001-38285	10.4	3/16/2021
<a href="#">10.44</a>	Letter Agreement, dated January 18, 2021, between the Company and Chris Matton.	10-Q	001-38285	10.2	5/07/2021
<a href="#">10.45^</a>	Purchase and Sale Agreement dated May 27, 2021, between Bandwidth Inc. and USEF Edwards Mill Owner, LLC.	8-K	001-38285	10.1	5/28/2021
<a href="#">10.46^</a>	Lease Agreement dated May 27, 2021, between Bandwidth Inc. and USEF Edwards Mill Owner, LLC.	8-K	001-38285	10.2	5/28/2021
<a href="#">10.47</a>	Escrow Agreement dated May 27, 2021, between Bandwidth Inc., USEF Edwards Mill Owner, LLC and Chicago Title Insurance Company.	8-K	001-38285	10.3	5/28/2021
<a href="#">10.48</a>	Employment Agreement, dated July 6, 2021, between the Company and Daryl Raiford.	8-K	001-38285	10.1	7/8/2021
<a href="#">10.49</a>	Forms of Global Restricted Stock Unit Grant Notice and Global Restricted Stock Unit Agreement.	10-Q	001-38285	10.1	11/9/2021



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<a href="#">10.50</a>	Employment Agreement, dated February 22, 2022, between the Company and Anthony F. Bartolo.	8-K	001-38285	10.1	2/22/2022
<a href="#">10.51</a>	Employment Agreement, dated December 6, 2019, between the Company and Scott Mullen.				Filed herewith
<a href="#">10.52</a>	Employment Agreement, dated February 24, 2022, between the Company and R. Brandon Asbill.				Filed herewith
<a href="#">21.1</a>	List of subsidiaries of Bandwidth Inc.				Filed herewith
<a href="#">23.1</a>	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.				Filed herewith
<a href="#">31.1</a>	Certificate of the Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				Filed herewith
<a href="#">31.2</a>	Certification of the Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				Filed herewith
<a href="#">32.1*</a>	Certification of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act 2002.				Furnished herewith
101.INS	XBRL Instance Document - the Instance Document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL Document.				Filed herewith
101.SCH	XBRL Taxonomy Schema Document.				Filed herewith
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.				Filed herewith
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.				Filed herewith
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.				Filed herewith
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.				Filed herewith

^ Certain of the exhibits to this Exhibit 10.45 or 10.46, as applicable, have been omitted in accordance with Regulation S-K Item 601. The Registrant agrees to furnish a copy of all omitted exhibits to the SEC upon its request.

\* The certifications furnished in Exhibit 32.1 hereto are deemed to accompany this Annual Report on Form 10-K and will not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, except to the extent that the registrant specifically incorporates it by reference.

### **Item 16. Form 10-K Summary**

None.



## Description of Capital Stock

The following summary is a description of the material terms of Bandwidth Inc.'s ("our") capital stock. This summary is not meant to be complete and is qualified in its entirety by reference to the applicable provisions of the Delaware General Corporation Law, our second amended and restated certificate of incorporation and our second amended and restated bylaws.

### General

Our authorized capital stock consists of 120,000,000 shares of common stock, par value \$0.001 per share, and 10,000,000 shares of preferred stock, par value \$0.001 per share. Our common stock is divided into two classes, Class A common stock and Class B common stock. Our authorized Class A common stock consists of 100,000,000 shares and our authorized Class B common stock consists of 20,000,000 shares.

The following description of our capital stock and provisions of our second amended and restated certificate of incorporation and second amended and restated bylaws are summaries and are qualified by reference to the second amended and restated certificate of incorporation and second amended and restated bylaws. Copies of these documents have been filed with the SEC and are incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2021.

### Class A Common Stock and Class B Common Stock

As of December 31, 2021, there were (i) 23,177,988 shares of our Class A common stock outstanding and held of record by 16 stockholders and (ii) 1,965,170 shares of Class B common stock outstanding and held of record by 6 stockholders.

### Voting Rights

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

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

Our second amended and restated certificate of incorporation provides that we may not increase or decrease the authorized number of shares of Class A common stock or Class B common stock without the affirmative vote of the holders of a majority of the combined voting power of the outstanding shares of Class A common stock and Class B common stock, voting together as a single class. In addition, we may not issue any shares of Class B common stock, unless that issuance is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class B common stock.

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

***Economic Rights***

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

***Dividends***

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

***Liquidation***

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

**Subdivisions and Combinations.** If we subdivide or combine in any manner outstanding shares of Class A common stock or Class B common stock, then the outstanding shares of the other class will be subdivided or combined in the same proportion and manner, unless different treatment of the shares of each class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A common stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B common stock, each voting separately as a class.

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

***Conversion***

Each share of Class B common stock is convertible at any time at the option of the holder into one share of Class A common stock. In addition, each share of Class B common stock will convert automatically into one share of Class A common stock upon (a) any transfer, whether or not for value and whether voluntary or involuntary or by operation of law, except for certain transfers described in our second amended and restated certificate of incorporation, including, without limitation, certain transfers for tax and estate planning purposes, (b) the date specified by the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the outstanding shares of Class B common stock and (c) certain stockholders beneficially owning, directly or indirectly, in the aggregate less than 40% of the number of shares of Class B common stock held by such stockholders.

***Preferred Stock***

Under the terms of our second amended and restated certificate of incorporation, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including

voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

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

### **Options**

As of December 31, 2021, we had outstanding options to purchase (i) an aggregate of 169,360 shares of our Class A common stock under our 2010 Plan, at a weighted-average exercise price of \$9.33 per share, and (ii) 10,849 shares of our Class A common stock under our 2017 Plan, at a weighted-average exercise price of \$22.81 per share.

### **Restricted Stock Units**

As of December 31, 2021, we had outstanding restricted stock units of 344,486 under our 2017 Plan.

### **Registration Rights**

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

*Demand Registration Rights.* At any time, the holders of registrable shares entitled to demand registration rights may request that we register all or a portion of their registrable shares for sale under the Securities Act, so long as the request for such registration is for at least 25% of all registrable shares then outstanding (or a lesser percentage if the anticipated aggregate offering price would exceed \$10 million). We will effect the registration as requested unless, in the good faith judgment of our board of directors, such registration should be delayed. We may be required to effect two of these registrations. In addition, when we are eligible for the use of Form S-3, or any successor form, holders of registrable shares entitled to demand registration rights may make unlimited requests that we register all or a portion of their registrable shares for sale under the Securities Act on Form S-3, or any successor form, having an anticipated aggregate offering price, net of selling expenses, of at least \$3 million so long as the request for registration is for at least 20% of all registrable shares then outstanding.

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

*Other Provisions.* In the event that any registration in which the holders of registrable shares participate pursuant to the Investors' Rights Agreement is an underwritten public offering, the number of registrable shares to be included may, in specified circumstances, be limited due to market conditions.

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

**Anti-Takeover Provisions**

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

**Removal of Directors**

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

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

**Super-Majority Voting**

The Delaware General Corporation Law provides generally that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation’s certificate of incorporation or bylaws, unless a corporation’s certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our second amended and restated bylaws may be amended or repealed by a majority vote of our board of directors or the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the votes that all of our stockholders would be entitled to cast in an annual election of directors. In addition, the affirmative vote of the holders of at least 66 $\frac{2}{3}$ % of the votes which all our stockholders would be entitled to cast in an election of directors is required to amend or repeal or to adopt any provisions inconsistent with any of the provisions of our second amended and restated certificate of incorporation described in this paragraph and the section captioned “—Removal of Directors.”

**Stockholder Action; Special Meeting of Stockholders**

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

**Exclusive Jurisdiction**

Our second amended and restated bylaws provide that, unless we consent to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any derivative action or proceeding brought on our behalf, any action asserting a claim of breach of fiduciary duty owed by any of our directors, officers, or other employees to us or to our stockholders, any action asserting a claim governed by the internal affairs doctrine or any action asserting a claim arising pursuant to the Delaware General Corporation Law.

**Authorized but Unissued Shares**

The authorized but unissued shares of our Class A common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the

NASDAQ Global Select Market. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

**Transfer Agent and Registrar**

The transfer agent and registrar for our Class A common stock is American Stock Transfer & Trust Company, LLC.

**Listing**

Our Class A common stock is listed on the NASDAQ Global Select Market under the symbol "BAND".

## **FORM OF**

### **INDEMNIFICATION AND ADVANCEMENT AGREEMENT**

This Indemnification and Advancement Agreement (“Agreement”) is made as of \_\_\_\_\_, 20\_\_\_\_ by and between Bandwidth Inc., a Delaware corporation (the “Company”), and \_\_\_\_\_, [a member of the Board of Directors/an officer] of the Company (“Indemnitee”). This Agreement supersedes and replaces any and all previous Agreements between the Company and Indemnitee covering indemnification and advancement of expenses.

#### **RECITALS**

WHEREAS, the Board of Directors of the Company (the “Board”) believes that highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification and advancement of expenses against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Second Amended and Restated Bylaws (the “Bylaws”) and the Second Amended and Restated Certificate of Incorporation (the “Certificate of Incorporation”) of the Company require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware (the “DGCL”). The Bylaws, Certificate of Incorporation and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the Board, the Company’s officers and other persons with respect to indemnification and advancement of expenses;

WHEREAS, the uncertainties relating to such insurance, to indemnification and to advancement of expenses may increase the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;



WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws, the Certificate of Incorporation and any resolutions adopted pursuant thereto, as well as any rights of Indemnitee under any directors' and officers' liability insurance policy, and is not a substitute therefor, and does not diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the Bylaws, the Certificate of Incorporation, the DGCL and insurance as adequate in the present circumstances, and may not be willing to serve or continue to serve as an officer or director without adequate additional protection, and the Company desires Indemnitee to serve or continue to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified and be advanced expenses.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnitee agrees to serve as a [director/officer] of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law). This Agreement does not create any obligation on the Company to continue Indemnitee in such position and is not an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee.

Section 2. Definitions. As used in this Agreement:

(a) "Agent" means any person who is authorized by the Company or an Enterprise to act for or represent the interests of the Company or an Enterprise, respectively.

(b) A "Change in Control" occurs upon the earliest to occur after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities unless the change in relative beneficial ownership of the Company's securities by any Person results solely from (A) a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors or (B) the conversion or other disposition of shares of the Company's Class B common stock held by stockholders of the Company, in each case, other than as permitted in the Certificate of Incorporation to not be deemed a conversion from the Company's Class B common stock to the Company's Class A common stock;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(b)i., 2(b) iii. or 2(b) iv. hereof) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which

would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

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

v. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement, unless such event was a result of the conversion of shares held by stockholders of the Company.

vi. For purposes of this Section 2(b), the following terms have the following meanings:

- 1 "Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time.
- 2 "Person" has the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person excludes (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company and (iii) any entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.
- 3 "Beneficial Owner" has the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner excludes any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(c) "Corporate Status" describes the status of a person who is or was acting as a director, officer, employee, fiduciary, or Agent of the Company or an Enterprise.

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

(e) "Enterprise" means any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other entity for which Indemnitee is or was serving at the request of the Company as a director, officer, employee or Agent.

(f) "Expenses" includes all reasonable attorneys' fees, retainers, court costs, transcript costs, fees and other costs of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the

actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties and all other disbursements, obligations or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 14(d) of this Agreement only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel will be presumed conclusively to be reasonable. Expenses, however, do not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

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

(h) "Potential Change in Control" means the occurrence of any of the following events: (i) the Company enters into any written or oral agreement, undertaking or arrangement, the consummation of which would result in the occurrence of a Change in Control; (ii) any Person or the Company publicly announces an intention to take or consider taking actions which if consummated would constitute a Change in Control; (iii) any Person who becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 5% or more of the combined voting power of the Company's then outstanding securities entitled to vote generally in the election of directors increases his beneficial ownership of such securities by 5% or more over the percentage so owned by such Person on the date hereof; or (iv) the Board adopts a resolution to the effect that, for purposes of this Agreement, a Potential Change in Control has occurred. Notwithstanding the foregoing, in no event shall any such agreement, undertaking, arrangement, public announcement, acquisition of securities or beneficial ownership, or Board resolution relating to an increase in ownership or beneficial interest by David A. Morken or his affiliates constitute a Potential Change in Control.

(i) The term "Proceeding" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, regulatory or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of Indemnitee's Corporate Status or by reason of any action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or failure to act) on Indemnitee's part while acting pursuant to Indemnitee's Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement or advancement of Expenses can

be provided under this Agreement. A Proceeding also includes a situation the Indemnitee believes in good faith may lead to or culminate in the institution of a Proceeding.

Section 3. Indemnity in Third-Party Proceedings. The Company will indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding had no reasonable cause to believe that Indemnitee's conduct was unlawful.

Section 4. Indemnity in Proceedings by or in the Right of the Company. The Company will indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company. The Company will not indemnify Indemnitee for Expenses under this Section 4 related to any claim, issue or matter in a Proceeding for which Indemnitee has been finally adjudged by a court to be liable to the Company, unless, and only to the extent that, the Court of Chancery of the state of Delaware (the "Delaware Court") or any court in which the Proceeding was brought determines upon application by Indemnitee that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law, the Company will indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection with any Proceeding to the extent that Indemnitee is successful, on the merits or otherwise. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company will indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section 5 and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, will be deemed to be a successful result as to such claim, issue or matter.

Section 6. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement and to the fullest extent permitted by applicable law, the Company will indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with any Proceeding to which Indemnitee is not a party but to which Indemnitee is a witness, deponent, interviewee or otherwise asked to participate or provide information.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not,

however, for the total amount thereof, the Company will indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification. Notwithstanding any limitation in Sections 3, 4 or 5 of this Agreement, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law (including but not limited to, the DGCL and any amendments to or replacements of the DGCL adopted after the date of this Agreement that expand the Company's ability to indemnify its officers and directors) if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor).

Section 9. Exclusions. Notwithstanding any provision in this Agreement, the Company is not obligated under this Agreement to make any indemnification payment to Indemnitee in connection with any Proceeding:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except to the extent provided in Section 16(b) of this Agreement and except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) of this Agreement) or similar provisions of state statutory law or common law, (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act) or (iii) any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(c) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Proceeding or part of any Proceeding is to enforce Indemnitee's rights to indemnification or advancement, of Expenses, including a Proceeding (or any part of any Proceeding) initiated pursuant to Section 14 of this Agreement, (ii) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (iii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

Section 10. Advances of Expenses.

(a) The Company will advance, to the extent not prohibited by law, the Expenses incurred by Indemnitee in connection with any Proceeding (or any part of any Proceeding) not initiated by Indemnitee or any Proceeding (or any part of any Proceeding) initiated by Indemnitee if (i) the Proceeding or part of any Proceeding is to enforce Indemnitee's rights to obtain indemnification or advancement of Expenses from the Company or Enterprise, including a proceeding initiated pursuant to Section 14 of this Agreement or (ii) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation. The Company will advance the Expenses within thirty (30) days after the receipt by the Company of a

statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding.

(b) Advances will be unsecured and interest free. Indemnitee hereby undertakes to repay any amounts so advanced (without interest) to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company, thus Indemnitee qualifies for advances upon the execution of this Agreement and delivery to the Company. No other form of undertaking is required other than the execution of this Agreement. The Company will make advances without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement.

Section 11. Procedure for Notification of Claim for Indemnification or Advancement.

(a) Indemnitee will notify the Company in writing of any Proceeding with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. Indemnitee will include in the written notification to the Company a description of the nature of the Proceeding and the facts underlying the Proceeding and provide such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. Indemnitee's failure to notify the Company will not relieve the Company from any obligation it may have to Indemnitee under this Agreement, and any delay in so notifying the Company will not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company will, promptly upon receipt of such a request for indemnification or advancement, advise the Board in writing that Indemnitee has requested indemnification or advancement.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

Section 12. Procedure Upon Application for Indemnification.

(a) Unless a Change of Control has occurred, the determination of Indemnitee's entitlement to indemnification will be made:

i. by a majority vote of the Disinterested Directors, even though less than a quorum of the Board;

ii. by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board;

iii. if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by written opinion provided by Independent Counsel selected by the Board; or

iv. if so directed by the Board, by the stockholders of the Company.

(b) If a Change in Control has occurred, the determination of Indemnitee's entitlement to indemnification will be made by written opinion provided by Independent Counsel selected by Indemnitee (unless Indemnitee requests such selection be made by the Board)

(c) The party selecting Independent Counsel pursuant to subsection (a)iii. or (b) of this Section 12 will provide written notice of the selection to the other party. The notified

party may, within ten (10) days after receiving written notice of the selection of Independent Counsel, deliver to the selecting party a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection will set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected will act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Delaware Court has determined that such objection is without merit. If, within thirty (30) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) of this Agreement and the final disposition of the Proceeding, Independent Counsel has not been selected or, if selected, any objection to such selection has not been resolved, either the Company or Indemnitee may petition the Delaware Court for resolution of any objection made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court designates. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel will be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(d) Indemnitee will cooperate with the person, persons or entity making the determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. The Company will advance and pay any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making the indemnification determination irrespective of the determination as to Indemnitee's entitlement to indemnification and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing of the determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied and providing a copy of any written opinion provided to the Board by Independent Counsel.

(e) If it is determined that Indemnitee is entitled to indemnification, the Company will make payment to Indemnitee within thirty (30) days after such determination.

### Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination will, to the fullest extent not prohibited by law, presume Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company will, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, will be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the determination of the Indemnitee's entitlement to indemnification has not been made pursuant to Section 12 of this Agreement within sixty (60) days after the later of

(i) receipt by the Company of Indemnitee's request for indemnification pursuant to Section 11(a) of this Agreement and (ii) the final disposition of the Proceeding for which Indemnitee requested indemnification (the "Determination Period"), the requisite determination of entitlement to indemnification will, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee will be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law. The Determination Period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, the Determination Period will not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 12(a) iv. of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel.

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

(d) For purposes of any determination of good faith, Indemnitee will be deemed to have acted in good faith if Indemnitee acted based on the records or books of account of the Company, its subsidiaries, or an Enterprise, including financial statements, or on information supplied to Indemnitee by the directors or officers of the Company, its subsidiaries, or an Enterprise in the course of their duties, or on the advice of legal counsel for the Company, its subsidiaries, or an Enterprise or on information or records given or reports made to the Company or an Enterprise by an independent certified public accountant or by an appraiser, financial advisor or other expert selected with reasonable care by or on behalf of the Company, its subsidiaries or an Enterprise. Further, Indemnitee will be deemed to have acted in a manner "not opposed to the best interests of the Company," as referred to in this Agreement if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan. The provisions of this Section 13(d) are not exclusive and do not limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any director, officer, trustee, partner, managing member, fiduciary, agent or employee of the Enterprise may not be imputed to Indemnitee for purposes of determining Indemnitee's right to indemnification under this Agreement.

#### Section 14. Remedies of Indemnitee.



(a) Indemnitee may commence litigation against the Company in the Delaware Court to obtain indemnification or advancement of Expenses provided by this Agreement in the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) the Company does not advance Expenses pursuant to Section 10 of this Agreement, (iii) the determination of entitlement to indemnification is not made pursuant to Section 12 of this Agreement within the Determination Period, (iv) the Company does not indemnify Indemnitee pursuant to Section 5 or 6 or the second to last sentence of Section 12(d) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) the Company does not indemnify Indemnitee pursuant to Section 3, 4, 7 or 8 of this Agreement within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or (vi) in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee must commence such Proceeding seeking an adjudication or an award in arbitration within one hundred and eighty (180) days following the date on which Indemnitee first has the right to commence such Proceeding pursuant to this Section 14(a); provided, however, that the foregoing clause does not apply in respect of a Proceeding brought by Indemnitee to enforce Indemnitee's rights under Section 5 of this Agreement. The Company will not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) If a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 will be conducted in all respects as a *de novo* trial, or arbitration, on the merits and Indemnitee may not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14, the Company will have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be, and will not introduce evidence of the determination made pursuant to Section 12 of this Agreement.

(c) If a determination is made pursuant to Section 12 of this Agreement that Indemnitee is entitled to indemnification, the Company will be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company is, to the fullest extent not prohibited by law, precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and will stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement.

(e) It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company, to the fullest extent permitted by law, will (within ten (10) days after receipt by the Company of a written request therefor) advance to Indemnitee such Expenses which are incurred by Indemnitee in connection with any action concerning this Agreement, Indemnitee's right to indemnification or

advancement of Expenses from the Company, or concerning any directors' and officers' liability insurance policies maintained by the Company, and will indemnify Indemnitee against any and all such Expenses unless the court determines that each of the Indemnitee's claims in such Proceeding were made in bad faith or were frivolous or are prohibited by law.

Section 15. Establishment of Trust.

(a) In the event of a Potential Change in Control or a Change in Control, the Company will, upon written request by Indemnitee, create a trust for the benefit of Indemnitee (the "Trust") and from time to time upon written request of Indemnitee will fund such Trust in an amount sufficient to satisfy the reasonably anticipated indemnification and advancement obligations of the Company to the Indemnitee in connection with any Proceeding for which Indemnitee has demanded indemnification and/or advancement prior to the Potential Change in Control or Change in Control (the "Funding Obligation"). The trustee of the Trust (the "Trustee") will be a bank or trust company or other individual or entity chosen by the Indemnitee and reasonably acceptable to the Company. Nothing in this Section 15 relieves the Company of any of its obligations under this Agreement.

(b) The amount or amounts to be deposited in the Trust pursuant to the Funding Obligation will be determined by mutual agreement of the Indemnitee and the Company or, if the Company and the Indemnitee are unable to reach such an agreement, by Independent Counsel selected in accordance with Section 12(b) of this Agreement. The terms of the Trust will provide that, except upon the consent of both the Indemnitee and the Company, upon a Change in Control: (i) the Trust may not be revoked, or the principal thereof invaded, without the written consent of the Indemnitee; (ii) the Trustee will advance Expenses incurred by Indemnitee, to the fullest extent permitted by applicable law, within two (2) business days of a request by the Indemnitee; (iii) the Company will continue to fund the Trust in accordance with the Funding Obligation; (iv) the Trustee will promptly pay to the Indemnitee all amounts for which the Indemnitee is entitled to indemnification pursuant to this Agreement or otherwise; and (v) all unexpended funds in such Trust revert to the Company upon mutual agreement by the Indemnitee and the Company or, if the Indemnitee and the Company are unable to reach such an agreement, by Independent Counsel selected in accordance with Section 12(b) of this Agreement, that the Indemnitee has been fully indemnified under the terms of this Agreement. New York law (without regard to its conflicts of laws rules) governs the Trust and the Trustee will consent to the exclusive jurisdiction of Delaware Court, in accordance with Section 25 of this Agreement.

Section 16. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The indemnification and advancement of Expenses provided by this Agreement are not exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. The indemnification and advancement of Expenses provided by this Agreement may not be limited or restricted by any amendment, alteration or repeal of this Agreement in any way with respect to any action taken or omitted by Indemnitee in Indemnitee's Corporate Status occurring prior to any amendment, alteration or repeal of this Agreement. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Bylaws, the Certificate of Incorporation, or this Agreement, it is the intent of the parties hereto that Indemnitee enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy is cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or

otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, will not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement of Expenses and/or insurance provided by one or more other Persons with whom or which Indemnitee may be associated. The relationship between the Company and such other Persons, other than an Enterprise, with respect to the Indemnitee's rights to indemnification, advancement of Expenses and insurance is described by this subsection, subject to the provisions of subsection (d) of this Section 16 with respect to a Proceeding concerning Indemnitee's Corporate Status with an Enterprise.

i. The Company hereby acknowledges and agrees:

1) the Company's obligations to Indemnitee are primary and any obligation of any other Persons, other than an Enterprise, are secondary (i.e., the Company is the indemnitor of first resort) with respect to any request for indemnification or advancement of Expenses made pursuant to this Agreement concerning any Proceeding;

2) the Company is primarily liable for all indemnification and indemnification or advancement of Expenses obligations for any Proceeding, whether created by law, the Certificate of Incorporation, the Bylaws, contract (including this Agreement) or otherwise;

3) any obligation of any other Persons with whom or which Indemnitee may be associated to indemnify Indemnitee and/or advance Expenses to Indemnitee in respect of any proceeding are secondary to the obligations of the Company's obligations;

4) the Company will indemnify Indemnitee and advance Expenses to Indemnitee hereunder to the fullest extent provided herein without regard to any rights Indemnitee may have against any other Person with whom or which Indemnitee may be associated or insurer of any such Person; and

ii. the Company irrevocably waives, relinquishes and releases (A) any other Person with whom or which Indemnitee may be associated from any claim of contribution, subrogation, reimbursement, exoneration or indemnification, or any other recovery of any kind in respect of amounts paid by the Company to Indemnitee pursuant to this Agreement and (B) any right to participate in any claim or remedy of Indemnitee against any Person, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from any Person, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right.

iii. In the event any other Person with whom or which Indemnitee may be associated or their insurers advances or extinguishes any liability or loss for Indemnitee, the payor has a right of subrogation against the Company or its insurers for all amounts so paid which would otherwise be payable by the Company or its insurers under this Agreement. In no event will payment by any other Person with whom or which Indemnitee may be associated or their insurers affect the obligations of the Company hereunder or shift primary liability for the Company's obligation to indemnify or advance of Expenses to any other Person with whom or which Indemnitee may be associated.

iv. Any indemnification or advancement of Expenses provided by any other Person with whom or which Indemnitee may be associated is specifically in excess over the Company's obligation to indemnify and advance Expenses or any valid and collectible insurance

(including but not limited to any malpractice insurance or professional errors and omissions insurance) provided by the Company.

(c) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees or agents of the Company, the Company will obtain a policy or policies covering Indemnitee to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies, including coverage in the event the Company does not or cannot, for any reason, indemnify or advance Expenses to Indemnitee as required by this Agreement. If, at the time of the receipt of a notice of a claim pursuant to this Agreement, the Company has director and officer liability insurance in effect, the Company will give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company will thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies. Indemnitee agrees to assist the Company efforts to cause the insurers to pay such amounts and will comply with the terms of such policies, including selection of approved panel counsel, if required.

(d) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee for any Proceeding concerning Indemnitee's Corporate Status with an Enterprise will be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such Enterprise. The Company and Indemnitee intend that any such Enterprise (and its insurers) be the indemnitor of first resort with respect to indemnification and advancement of Expenses for any Proceeding related to or arising from Indemnitee's Corporate Status with such Enterprise. The Company's obligation to indemnify and advance Expenses to Indemnitee is secondary to the obligations the Enterprise or its insurers owe to Indemnitee. Indemnitee agrees to take all reasonably necessary and desirable action to obtain from an Enterprise indemnification and advancement of Expenses for any Proceeding related to or arising from Indemnitee's Corporate Status with such Enterprise.

(e) In the event of any payment made by the Company under this Agreement, the Company will be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee from any Enterprise or its insurance carrier. Indemnitee will execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

Section 17. Duration of Agreement. This Agreement continues until and terminates upon the later of: (a) ten (10) years after the date that Indemnitee ceases to serve as a [director/officer] of the Company or (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any Proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement relating thereto. The indemnification and advancement of Expenses rights provided by or granted pursuant to this Agreement are binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other Enterprise, and inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

Section 18. Severability. If any provision or provisions of this Agreement is held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal

or unenforceable, that is not itself invalid, illegal or unenforceable) will not in any way be affected or impaired thereby and remain enforceable to the fullest extent permitted by law; (b) such provision or provisions will be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) will be construed so as to give effect to the intent manifested thereby.

Section 19. Interpretation. Any ambiguity in the terms of this Agreement will be resolved in favor of Indemnitee and in a manner to provide the maximum indemnification and advancement of Expenses permitted by law. The Company and Indemnitee intend that this Agreement provide to the fullest extent permitted by law for indemnification and advancement in excess of that expressly provided, without limitation, by the Certificate of Incorporation, the Bylaws, vote of the Company stockholders or disinterested directors, or applicable law.

Section 20. Enforcement.

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

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the Bylaws, any directors' and officers' insurance maintained by the Company and applicable law, and is not a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 21. Modification and Waiver. No supplement, modification or amendment of this Agreement is binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement will be deemed or constitutes a waiver of any other provisions of this Agreement nor will any waiver constitute a continuing waiver.

Section 22. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company does not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 23. Notices. All notices, requests, demands and other communications under this Agreement will be in writing and will be deemed to have been duly given if (a) delivered by hand to the other party, (b) sent by reputable overnight courier to the other party or (c) sent by electronic mail, with receipt of oral confirmation that such communication has been received:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee provides to the Company.

(b) If to the Company to:

Bandwidth Inc.  
900 Main Campus Drive  
(800) 808-5150  
Attention: R. Brandon Asbill  
Email: basbill@bandwidth.com

or to any other address as may have been furnished to Indemnitee by the Company.

Section 24. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, will contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 25. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties are governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or Proceeding arising out of or in connection with this Agreement may be brought only in the Delaware Court and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or Proceeding arising out of or in connection with this Agreement, (iii) waive any objection to the laying of venue of any such action or Proceeding in the Delaware Court and (iv) waive, and agree not to plead or to make, any claim that any such action or Proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 26. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which will for all purposes be deemed to be an original but all of which together constitutes one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 27. Headings. The headings of this Agreement are inserted for convenience only and do not constitute part of this Agreement or affect the construction thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

BANDWIDTH INC.

INDEMNITEE

By: \_\_\_\_\_  
Name:  
Office:

\_\_\_\_\_  
Name:  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT (this "Agreement") is made and entered into as of December 6, 2019 (the "Effective Date"), by and between Bandwidth Inc. ("Bandwidth"), a Delaware corporation with its principal place of business at 900 Main Campus Drive, Suite 100, Raleigh, North Carolina 27606, and Scott Mullen ("Executive").

**BACKGROUND**

- A. Executive is Bandwidth's Chief Technology Officer.
- B. Bandwidth and Executive now desire to enter into this Agreement in order to formalize the terms and conditions of employment pursuant to this Agreement.
- C. All initially capitalized terms are either defined herein (but not necessarily where first used) or are defined in **Exhibit A** attached hereto and incorporated herein by this reference.

**AGREEMENT**

In consideration of the foregoing, the agreements made herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1 Employment Period.** Bandwidth agrees to employ Executive and Executive agrees to serve Bandwidth for the period beginning on the Effective Date and ending at 11:59 p.m., Raleigh, North Carolina, local time, until December 31, 2019 (as may be extended, the "Employment Period"). The Employment Period will automatically extend for consecutive additional one (1) year periods unless either party provides the other with written notice to the contrary no less than sixty (60) days prior to the expiration of the then current Employment Period. If notice of non-extension is provided by Bandwidth, this Agreement and Executive's employment shall terminate at the end of the then current Employment Period, and such termination of employment shall be treated as a termination by Bandwidth other than for Cause. This Agreement may be terminated before the expiration of the Employment Period only pursuant to Section 4. Bandwidth and Executive each acknowledges and agrees that this Agreement does not interrupt the continuity of Executive's employment.

**2 Nature of Duties.**

2.1 Executive will serve as Bandwidth's Chief Technology Officer. As such, Executive will act in conformity with the management policies, guidelines and directions issued by Bandwidth's Chief Executive Officer (the "Chief Executive Officer"), and will have general charge and supervision of those functions and such other responsibilities as the Chief Executive Officer determines and assigns; provided they are not inconsistent with the functions and duties typically performed by, and the responsibility of, Chief Technology Officer of like corporations. Executive will report to the Chief Executive Officer.

2.2 Executive will work exclusively for Bandwidth on a full-time basis, with his primary office at Bandwidth's headquarters. During normal business hours Executive will devote substantially all of his



business time and attention to Bandwidth's business. The foregoing does not prohibit Executive from engaging in civic, professional and business activities that do not interfere with his duties to Bandwidth, and that otherwise do not violate this Agreement.

1.3 Executive will perform his duties and responsibilities hereunder diligently, faithfully and loyally.

### **3 Compensation and Benefits.**

#### **3.1 Base Salary and Expenses.**

3.1.1 During the Employment Period, Bandwidth will pay to Executive a salary at the initial rate of \$290,000.16 per annum (the "Base Salary"). The Base Salary will be earned and paid in equal installments, semi-monthly, or at such other interval as the Bandwidth's Board of Directors (the "Board") or Compensation Committee of the Board (the "Compensation Committee") directs, but no less often than once each month. At the beginning of each year during the Employment Period, the Chief Executive Officer will in good faith review the Base Salary and recommend to the Board and/or Compensation Committee any changes for determination by the Board and/or the Compensation Committee. Bandwidth shall be entitled to withhold, or cause to be withheld, any amount of federal, state, city or other withholding taxes or other amounts either required by law or authorized by Executive with respect to payments made to Executive in connection with his employment hereunder.

3.1.2 Bandwidth will reimburse Executive for all reasonable out-of-pocket business expenses incurred by Executive on Bandwidth's behalf during the Employment Period, so long as such expenses are reimbursable under Bandwidth's policies in effect from time to time. At Executive's request, expenses will be advanced before an expenditure is incurred, or they will be paid by Bandwidth directly to third parties from which goods or services are being obtained.

#### **3.2 Bonus Compensation.**

3.2.1 In addition to the Base Salary, Bandwidth will pay to Executive bonus compensation each year during the Employment Period of up to 40% of the Base Salary (or more if Bandwidth exceeds its corporate objectives established from time to time pursuant to Section 3.2.2 below and the pro-rata calculations provided in Section 3.2.2 below yield more than forty percent (40%) of the Base Salary) (the "Bonus Compensation"). The Bonus Compensation will be adjusted based on Executive's individual achievement of personal objectives established from time to time pursuant to Section 3.2.2 below; for example, if Bandwidth achieves one hundred percent (100%) of each of the corporate objectives established from time to time pursuant to Section 3.2.2 below and Executive achieves one hundred one percent (101%) of Executive's personal objectives, the Bonus Compensation calculated pursuant to the first sentence of this Section 3.2.1 would be multiplied by 1.01. The individual performance objectives and the relative weighting of the respective corporate objectives established from time to time pursuant to Section 3.2.2 below will be reviewed by the Chief Executive Officer, who will make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee at the beginning of each calendar year.

3.2.2 The Bonus Compensation will be earned, if at all, upon satisfaction of criteria, reviewed by the Chief Executive Officer, who will make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee, based on Executive's individual performance objectives and Bandwidth's corporate objectives. The Bonus Compensation based on Executive's individual performance objectives will be earned pro-rata upon Executive attaining each objective, as reasonably reviewed by the Chief Executive Officer, who will make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee. The Bonus Compensation based on Bandwidth's corporate objectives will be earned upon Bandwidth meeting its corporate objectives established from time to time pursuant to this Section 3.2.2 provided for in its annual Budget pro-rata based upon the relative weighting of the respective corporate objectives established from time to time pursuant to this Section 3.2.2, each as reasonably reviewed by the Chief Executive Officer, who will make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee not later than March 15<sup>th</sup> for each calendar year. The Chief Executive Officer may review and recommend for determination by the Board and/or the Compensation Committee other corporate objectives and corresponding Budget targets on an annual basis.

3.2.3 Bonus Compensation will be paid no later than March 15<sup>th</sup> of the year succeeding the calendar year with respect to which the Bonus Compensation, if any, is calculated.

3.2.4 In addition to the Bonus Compensation, the Chief Executive Officer will from time to time review Executive's efforts on behalf of Bandwidth and may make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee a special bonus for extraordinary service. Special bonuses, if any, will not count as any other compensation payable under this Agreement.

### 3.3 Stock Options and Restricted Stock.

3.3.1 All of Executive's then outstanding unvested Bandwidth stock options and Bandwidth restricted stock will immediately vest, and the options will be exercisable for the remainder of their full original term at grant without regard to any provision in the plan under which such securities were granted that may otherwise reduce the term, upon the earlier of:

- 3.3.1.1 Executive's death prior to termination or expiration of this Agreement; or
- 3.3.1.2 Change in Control.

3.3.2 This Section 3.3 is intended to be an award agreement itself, and is intended to supplement the terms and conditions of any and all other award agreements between Bandwidth and Executive relating to any options or restricted stock granted to Executive by Bandwidth, and the terms of this Section 3.3 will govern the terms of such other award agreements in the event of any conflicts, regardless of whether such other agreements are heretofore or have previously been entered into by the parties.

3.4 Severance. If Bandwidth terminates Executive other than for Cause, or Executive resigns for Good Reason, then Bandwidth will pay to Executive an amount ("Severance") equal to (i) one hundred

percent (100%) the then-current Base Salary, plus (ii) one hundred percent (100%) of the Bonus Compensation, determined as if Executive and Bandwidth will have achieved one hundred percent (100%) of the objectives or targets described in Section 3.2.1 above. Such amount, less any applicable taxes and other similar amounts, will be paid in equal installments over a twelve (12) month period following the termination in accordance with Bandwidth's standard payroll practices and procedures. The receipt of any severance benefits provided for pursuant to this Agreement or otherwise will be dependent upon Executive's delivery to Bandwidth of an effective general release of claims in a form reasonably satisfactory to Bandwidth not later than thirty (30) days after the date of Executive's termination of employment (or such longer period as may be required by applicable law), and shall be paid or commence no later than thirty (30) days thereafter, with the first payment to include any amounts that would have been payable on payroll dates occurring after Executive's termination of employment and prior to such first payment.

3.5 Vacation. During the Employment Period, Executive will be entitled to take vacation time in accordance with Bandwidth's policies, but no less than 25 days of paid vacation per year. Bandwidth and Executive will reasonably agree on when vacation time can be taken, and how many weeks can be taken consecutively. In the event that all or any part of the vacation is not taken for any reason during any year, there will be no compensation paid in lieu thereof, and accrued and unused vacation time will not be carried over and added to the vacation time for the succeeding year in accordance with such policy, unless otherwise approved by the Chief Executive Officer.

3.6 Health, Disability, Retirement, Death and Insurance Benefits.

3.6.1 Bandwidth will provide Executive with the same health, disability, retirement, death and other fringe benefits as are generally provided to the executive employees of Bandwidth in accordance with such terms, conditions and eligibility requirements as may from time to time be established or modified by Bandwidth; provided, that Bandwidth will pay the entire premium for Executive's then-current coverage under Bandwidth's group health insurance plan unless Bandwidth reasonably determines that paying the entire premium would be discriminatory and could subject Executive to adverse income tax consequences. Bandwidth shall, to the extent allowable by law, regulation, contract and policy, continue to pay Executive's basic medical insurance premiums for twelve (12) months following a termination of Executive by Bandwidth other than for Cause, whether or not this coverage is required to be available under COBRA.

3.6.2 Upon a termination of Executive by Bandwidth other than for Cause, Bandwidth will also pay Executive a lump sum amount equal to twelve (12) months of premiums for the term life insurance coverage Bandwidth had in effect for Executive as of the date of his termination of employment. Such amount will be payable, less applicable withholdings, with the first payment of Severance. Executive will have all rights to convert or purchase such life insurance policies as provided under the terms of the plan and policies.

3.7 Indemnification. During the Employment Period and after Executive's termination of employment, Bandwidth shall indemnify Executive and hold Executive harmless from and against any claim, loss or cause of action arising from or out of Executive's performance as an officer, director or employee of Bandwidth or any of its subsidiaries or other affiliates or in any other capacity, including any fiduciary capacity, in which Executive serves at Bandwidth's request, in each case to the maximum extent permitted by law and under Bandwidth's Certificate of Incorporation and By-Laws. This indemnification

right is in addition to any similar rights under any statute, Bandwidth's Certificate of Incorporation, By- Laws and under any other applicable agreements that now exist or may exist from time to time. During the Employment Period and for at least 3 years following Executive's termination of employment, Executive shall be covered by any policy of directors and officers' liability insurance maintained by Bandwidth for the benefit of its officers and directors.

#### **4 Termination.**

4.1 Executive's employment with Bandwidth will terminate automatically upon Executive's death.

4.2 Bandwidth may terminate Executive's employment at any time.

4.3 If at any time during the Employment Period Bandwidth (i) assigns Executive to serve in a capacity other than as Bandwidth's Chief Technology Officer or assigns Executive to perform tasks inconsistent with such position, in each case, which results in a material diminution in Executive's authority, duties or responsibilities, or (ii) Bandwidth materially breaches any provision of this Agreement, then Executive may resign his employment by providing notice to Bandwidth within thirty (30) days of such event of the reasons for his resignation under this provision. Bandwidth shall have thirty (30) days following receipt of such notice to remedy and cure the alleged diminution or breach. If Bandwidth does not cure such breach, Executive shall resign his employment and such resignation will be deemed to be a termination by Bandwidth other than for Cause and/or a resignation by Executive for "Good Reason." Executive can resign at any time other than for Good Reason.

4.4 Bandwidth will have the right to terminate Executive at any time, immediately, for Cause. "Cause" will mean: (i) Executive is convicted of any felony (or Executive pleads guilty or nolo contendere thereto); (ii) Executive fails or refuses to perform, in any material respect, the written policies or directives of the Chief Executive Officer, unless such failure is corrected within thirty (30) days following his receipt of written notice of such failure from Bandwidth that specifically identifies the manner in which the Chief Executive Officer believes Executive has substantially failed to materially perform his duties; (iii) Executive materially breaches this Agreement or any other agreement between Bandwidth and Executive, including, without limitation, any applicable nondisclosure agreement, unless such failure is corrected within thirty (30) days following his receipt of written notice of such failure from Bandwidth that specifically identifies the manner in which the Chief Executive Officer believes Executive has breached the agreement; or (iv) the gross or willful misconduct by Executive with regard to Bandwidth or any employee of Bandwidth that is materially injurious to Bandwidth or such employee.

## 5 Effects of Termination.

5.1 Upon Executive's termination of employment for any reason (including death), he will be entitled to receive (in addition to any compensation and benefits he is entitled to receive under Section 3 above, if applicable): (i) any earned but unpaid Base Salary, (ii) any earned but unpaid Bonus Compensation, (iii) unreimbursed business expenses in accordance with Bandwidth's policies for which expenses Executive has provided appropriate documentation, (iv) a lump sum cash amount equal to the value of his unused vacation days in accordance with the standard written policy of Bandwidth, and (v) any vested amounts or benefits to which Executive is then entitled under the terms of the benefit plans then sponsored by Bandwidth in accordance with their terms. All of Bandwidth's other obligations under this Agreement will end immediately upon Executive's termination of employment.

5.2 Any controversy or claim arising out of or relating to the benefits and entitlements of Executive following a Change of Control will be resolved by binding arbitration in Raleigh, North Carolina with the American Arbitration Association, pursuant to their commercial arbitration rules then in effect. The determination of the arbitrator will be conclusive and binding on Bandwidth and Executive, and judgment may be entered on the arbitrator's award in any court of competent jurisdiction. The prevailing party may recover its attorneys' fees and expenses incurred in such dispute, including the cost of the Arbitration if the prevailing party initiated the action.

6 Stockholder Vote. Anything in this Agreement to the contrary notwithstanding, in the event that any amounts payable to Executive hereunder, alone or together with other payments that Executive has a right to receive from Bandwidth, would constitute an "excess parachute payment" (as defined in Section 280G of the Internal Revenue Code of 1986, as amended (the "Code")), then Bandwidth will reduce the amounts payable to the minimum extent necessary to avoid the payment of any excess parachute payments and to avoid Executive being subject to the excise tax imposed by Section 4999 of the Code. In the event that any payment or benefit intended to be provided hereunder is required to be reduced pursuant to this Section, then the reduction shall occur in the following order: (a) reduction of cash payments described in Section 3 (with such reduction being applied to the payments in the reverse order in which they would otherwise be made, that is, later payments shall be reduced before earlier payments); (b) cancellation of acceleration of vesting on any equity awards for which the exercise price exceeds the then fair market value of the underlying equity; and (c) cancellation of acceleration of vesting of equity awards not covered under (b) above. In the event that acceleration of vesting of equity awards is to be cancelled, such acceleration of vesting shall be cancelled in the reverse order of the date of grant of such equity awards, that is, later equity awards shall be canceled before earlier equity awards. Without limiting the foregoing, if Bandwidth is not then a public company, it will use its best efforts to secure the approval of its stockholders to exempt the excess parachute payments from the loss of corporate tax deductions imposed under Section 280G and the excise tax imposed under Section 4999. If Bandwidth becomes publicly traded, it will comply with Section 951 of the Dodd-Frank Wall Street Reform and Consumer Protection Act that requires public companies subject to the federal proxy rules to provide their shareholders with an advisory vote on: executive compensation; the desired frequency of say-on-pay votes; and on golden parachute arrangements, and will seek shareholder votes under Internal Revenue Code Section 162(m), and any other law, regulation or rule that requires a shareholder vote on this Agreement, or that permits a vote to preserve tax benefits or avoid tax penalties.

## 7 Covenant Not To Compete.

7.1 Inducement. This covenant between Executive and Bandwidth is being executed and delivered by Executive in consideration of Executive's employment with Bandwidth and each party's rights and obligations agreed to hereunder (including, without limitation, the Base Salary, Bonus Compensation, and other benefits and payments set forth herein). Executive acknowledges that Bandwidth's business and Executive's responsibilities are international in scope. Executive further acknowledges that the covenant not to compete with Bandwidth contained in this Section 7 was and has been a condition of his employment since Executive was originally employed by Bandwidth.

7.2 Restricted Activities – Duration. Except as otherwise consented to or approved by the Chief Executive Officer in writing, Executive agrees that during the term of this Agreement and for twelve (12) months after Executive's employment with Bandwidth ends; regardless of the time, manner or reasons for termination, and regardless of whether terminated by Executive or Bandwidth, but only so long as Bandwidth does not breach its obligations in this Agreement, Executive will not, directly or indirectly, acting alone or as a member of a partnership or as an owner, director, officer, employee, manager, representative or consultant of any corporation or other business entity:

7.2.1 engage in any business in competition with the business that is conducted by Bandwidth in the United States, Canada or any European, Asian, Pacific or other foreign country in which Bandwidth then or thereafter transacts business or is making a bona fide attempt to do so;

7.2.2 induce, request or attempt to influence any customers or suppliers of Bandwidth to curtail or cancel their business or prospective business with Bandwidth or in any way interfere with Bandwidth's business relationships; or

7.2.3 induce, solicit, assist or facilitate the inducement or solicitation by a third person of any employee, officer, agent or representative of Bandwidth, to terminate their respective relationship with Bandwidth or in any way interfere with Bandwidth's employee, officer, agent or representative relationships.

7.3 Tolling; Relief of Obligations. In the event that Executive breaches any provision of this Section 7, that violation will toll the running of the restricted period set forth in Section 7.2 from the date of commencement of such violation until such violation ceases.

7.4 "Blue Penciling" or Modification. If the length of time, geographic area or scope of restricted business activity set forth in Section 7.2 is deemed unreasonably restrictive or unreasonable in any other respect in any court proceeding, Executive and Bandwidth agree and consent to such court's modifying or reducing such restriction(s) to the extent deemed reasonable under the circumstances then presented.

7.5 Definitions. As used in this Section 7, the following terms will have the following definitions:

- (i) The terms "compete" or "in competition," as used herein, will be deemed to

include, without limitation, becoming or being an employee, owner, partner, consultant, agent, stockholder, director, or officer of any person, partnership, firm, corporation or other entity (other than Bandwidth) which engages in (i) the business of developing, providing, offering and selling (A) retail VoIP services, including, without limitation, IP based unified communications services and trunking services; wholesale VoIP services; (B) wholesale origination, termination or SMS services; (C) emergency solutions for telecommunications carriers, including, without limitation, end-to-end call control and support, real-time address validation, automated provisioning and/or geospatial routing; (D) communication platform as a service (or CPaaS) solutions, including, without limitation, application program interfaces deploying, causing the use of, or using origination, termination, or SMS services; and/or (E) product(s) or service(s) to which any of clauses (A) through (D) apply and/or any product(s) or service(s) that perform substantially similar functions to which any of clauses (A) through (D) apply, or (ii) any other business conducted by Bandwidth immediately prior to such termination (or in which Bandwidth shall at such time be actively preparing to engage). Notwithstanding the foregoing, ownership of five (5%) percent or less of any class of securities of an entity will not constitute competition with Bandwidth.

(ii) The phrases “engage in a business” or “engage in a line of business” and similar phrases will be deemed to include marketing or otherwise selling products or researching, writing, developing, designing, distributing, testing or manufacturing products or services or otherwise preparing to market or sell products or services.

## **8 Nondisclosure of Confidential Information.**

8.1 Executive acknowledges that the discharge of his duties under this Agreement will necessarily involve his access to Confidential Information. Executive acknowledges that the unauthorized use by him or disclosure by him of such Confidential Information to third parties might cause irreparable damage to Bandwidth and Bandwidth's business. Accordingly, Executive agrees that at all times after the date hereof he will not copy, publish, disclose, divulge to or discuss with any third party nor use for his own benefit or that of others, without the prior express written consent of the Chief Executive Officer, except in the normal conduct of his duties under this Agreement, any Confidential Information, it being understood and acknowledged by Executive that all Confidential Information created, compiled or obtained by Executive or Bandwidth, or furnished to Executive by any person while Executive is associated with Bandwidth remains its exclusive property.

8.2 Promptly upon termination of his employment, irrespective of the time or manner thereof or reason therefor, and whether such termination is by Bandwidth or Executive, Executive agrees to return and surrender to Bandwidth all tangible Confidential Information in any manner in his control or possession, as well as all other Bandwidth property.

8.3 Pursuant to the Defend Trade Secrets Act of 2016, Executive understands that:

An individual may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

Further, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to the attorney and use the trade secret information in the court proceeding if the individual: (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

## **9 Remedies Inadequate.**

9.1 Executive acknowledges that the services to be rendered by him to Bandwidth as contemplated by this Agreement are special, unique and of extraordinary character. Executive expressly agrees and understands that the remedy at law for any breach by him of Section 7 or 8 of this Agreement will be inadequate and that the damages flowing from such breach are not readily susceptible to being measured in monetary terms. Accordingly, upon adequate proof of Executive's violation of any legally enforceable provision of Section 7 or 8, Bandwidth will be entitled to immediate injunctive relief, including, without limitation, a temporary order restraining any threatened or further breach. In the event any equitable proceedings are brought to enforce the provisions of any of Section 7, 8 or 9, Executive agrees that he will not raise in such proceedings any defense that there is an adequate remedy at law, and Executive hereby waives any such defense. Nothing in this Agreement will be deemed to limit Bandwidth's remedies at law or in equity for any breach by Executive of any of the provisions of Section 7 or 8 which may be pursued or availed of by Bandwidth. Without limiting the generality of the immediately preceding sentence, any covenant on Executive's part contained in Section 7 or 8, which may not be specifically enforceable will nevertheless, if breached, give rise to a cause of action for monetary damages.

9.2 Executive has carefully considered, and has had adequate time and opportunity to consult with his own counsel or other advisors regarding the nature and extent of the restrictions upon him and the rights and remedies conferred upon Bandwidth under Sections 7, 8 and 9, and hereby acknowledges and agrees that such restrictions are reasonable in time, territory and scope, are designed to eliminate competition which otherwise would be unfair to Bandwidth, do not stifle the inherent skill and experience of Executive, would not operate as a bar to Executive's sole means of support, are fully required to protect the legitimate interests of Bandwidth and do not confer a benefit upon Bandwidth disproportionate to the detriment to Executive.

9.3 The covenants and agreements made by Executive in Sections 7, 8 and 9 will survive full payment by Bandwidth to Executive of the amounts to which Executive is entitled under this Agreement, the expiration of the Employment Period and this Agreement.

**10 Rights.** Executive acknowledges and agrees that any procedure, design feature, schematic, invention, improvement, development, discovery, know how, concept, idea or the like (whether or not patentable, registrable under copyright or trademark laws, or otherwise protectable under similar laws) that Executive may conceive of, suggest, make, invent, develop or implement, during the course of his service pursuant to this Agreement (whether individually or jointly with any other person or persons), relating in any way to the business of Bandwidth or to the general industry of which Bandwidth is a part, as well as all physical embodiments and manifestations thereof, and all patent rights, copyrights, trademarks (or applications therefor) and similar protections therein (all of the foregoing referred to as "Work Product"), will be the sole, exclusive and absolute property of Bandwidth. All Work Product will be



deemed to be works for hire and, in addition to the Work Product being works for hire, Executive hereby assigns to Bandwidth all right, title and interest in, to and under such Work Product, including without limitation, the right to obtain such patents, copyright registrations, trademark registrations or similar protections as Bandwidth may desire to obtain. Executive will immediately disclose all Work Product to Bandwidth and agrees, at any time, upon Bandwidth's request and without additional compensation, to execute any documents and otherwise to cooperate with Bandwidth respecting the perfection of its right, title and interest in, to and under such Work Product, and in any litigation or controversy in connection therewith, all expenses incident thereto to be borne by Bandwidth.

**11 Assignment of Payment Rights.** In no event will Bandwidth be obligated to make any payment under this Agreement to any assignee or creditor of Executive, other than to the estate of Executive after his death. Prior to the time of payment under this Agreement, neither Executive nor his legal representative will have any right by way of anticipation or otherwise to dispose of any interest under this Agreement.

**12 Bandwidth's Obligations Unfunded.** Except as to any benefits that may be required to be funded under any benefit plan of Bandwidth pursuant to law, as provided for in this Agreement or pursuant to other agreements and which are not for the sole benefit of Executive, the obligations of Bandwidth under this Agreement are not funded and Bandwidth will not be required to set aside or deposit in escrow any monies in advance of the due date for payment thereof to Executive.

**13 Notices.** Any notice to be given hereunder by Bandwidth to Executive will be deemed to be given if delivered to Executive in person, if emailed to Executive at his business email address or if mailed or overnighted to Executive at his address last known on the records of Bandwidth, and any notice to be given by Executive to Bandwidth will be directed either to Bandwidth's Chief Executive, Secretary or General Counsel, and in any case it will be deemed to be given if delivered in person, if emailed to the address at his business email address or if mailed or overnighted to the person at his address last known on the records of Bandwidth, unless any party will have duly notified the other parties in writing of a change of address. All notices are deemed given when delivered to such address, or if otherwise actually received by the addressee.

**14 Section 409A.**

14.1 In order to ensure compliance with Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Section 409A"), the provisions of this Section 14 shall govern in all cases over any contrary or conflicting provision in this Agreement (other than a comparable Section 409A provision that is expressly intended to govern over this provision by its terms). The intent of the parties is that payments and benefits under this Agreement comply with, or be exempt from, Section 409A and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted and administered to be in compliance therewith. Executive acknowledges and agrees that Bandwidth has made no representation to Executive as to the tax treatment of the compensation and benefits provided pursuant to this Agreement and that Executive is solely responsible for all taxes due with respect to such compensation and benefits.

14.2 To the extent necessary to comply with Section 409A, references in this Agreement to "termination of employment" or "terminates employment" (and similar references) shall have the same

meaning as “separation from service” under Code Section 409A(a)(2)(A)(i), and no payment subject to Section 409A that is payable upon a termination of employment shall be paid unless and until (and not later than applicable in compliance with Section 409A) when Executive incurs a “separation from service” under Code Section 409A(a)(2)(A)(i) (a “Separation from Service”). In addition, if Executive is a “specified employee” within the meaning of Section 409A at the time of his Separation from Service, any nonqualified deferred compensation subject to Section 409A that would otherwise have been payable on account of, and within the first six months following, Executive’s Separation from Service, and not by reason of another event under Section 409A, will become payable on the first business day after six months following the date of Executive’s Separation from Service or, if earlier, the date of Executive’s death.

14.3 Consistent with the requirements of Section 409A, to the extent that any reimbursement or in-kind benefit provided is taxable and subject to Section 409A, unless stated otherwise – (i) reimbursements and in-kind benefits will be provided only during the period during which Executive is employed or receiving Severance; (ii) the expenses eligible for reimbursement or the in-kind benefits provided in any given calendar year will not affect the expenses eligible for reimbursement or the in-kind benefits provided in any other calendar year; (iii) the reimbursement of an eligible expense must be made no later than the last day of calendar year following the calendar year in which the expense was incurred; and (iv) the right to reimbursements or in-kind benefits cannot be liquidated or exchanged for any other benefit.

14.4 For purposes of Section 409A, Executive’s right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. If a Separation from Service occurs prior to the date of an Unapproved Change in Control, each payment of Severance and each other payment hereunder that is made within 2-1/2 months following the end of the year that contains the date of Executive’s Separation from Service is intended to be exempt from Section 409A as a short-term deferral within the meaning of the final regulations under Section 409A, each such payment that is made later than 2-1/2 months following the end of the year that contains the date of Executive’s Separation from Service is intended to be exempt under the two-times exception of Treasury Reg. § 1.409A-1(b)(9)(iii), up to the limitation on the availability of that exception specified in the regulation, and each payment that is made after the two-times exception ceases to be available shall be subject to delay (if necessary) in accordance with Section 14.2 above. Continued medical coverage is intended to be exempt from Section 409A under the exemption for health benefits in Treas. Reg. § 1.409A-1(b)(9)(v)(B).

14.5 In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement that is considered nonqualified deferred compensation subject to Section 409A. In no event shall the timing of Executive’s execution of the general release of claims, directly or indirectly, result in Executive designating the calendar year of payment of any nonqualified deferred compensation subject to Section 409A, and if such a payment that is subject to execution of the general release of claims could be made in more than one taxable year, payment shall be made in the later taxable year.

15 **Amendments.** This Agreement will not be modified or discharged, in whole or in part, except by an agreement in writing signed by all parties.

**16 Entire Agreement.** Except as expressly provided for herein, this Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. The parties are not relying on any other representation, express or implied, oral or written. This Agreement supersedes any prior employment agreement, written or oral, between Executive and Bandwidth; provided, however that other non-competition, non-solicitation, confidentiality agreements, and other restrictive covenant agreements between Executive and Bandwidth remain in effect and this Agreement and such other agreements may be enforced by Bandwidth independently or simultaneously.

**17 Captions; Terms.** The captions contained in this Agreement are for convenience of reference only and do not affect the meaning of any terms or provisions hereof. References to "termination of employment," "termination of Executive," "termination of this Agreement," "termination of the Employment Period," and any other terms of similar meaning will all be deemed equivalent. Masculine, feminine and neuter pronouns are interchangeable as context requires.

**18 Binding Effect.** The parties may not assign this Agreement and may not assign or delegate any right or duty hereunder and any attempt to do so is void. Subject to the foregoing, the rights and obligations of Bandwidth hereunder will inure to the benefit of, and will be binding upon, Bandwidth and its successors and assigns, and the rights and obligations of Executive hereunder will inure to the benefit of, and will be binding upon, Executive and his heirs, personal representatives and estate.

**19 Severable Provisions.** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions and any partially enforceable provision will be binding and enforceable to the extent enforceable in any jurisdiction.

**20 Governing Law and Venue.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of North Carolina, without regard to conflict of laws. Other than disputes that by the terms of this Agreement are to be resolved through binding arbitration, any and all actions brought arising out of, or based in whole or in part upon this Agreement or the employment relationship between Executive and Bandwidth, will be brought in either a federal or state court sitting in Raleigh, North Carolina, and the parties consent to jurisdiction and venue thereof.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written, effective the Effective Date.

**Bandwidth:**

**BANDWIDTH INC.**

By /s/ David A. Morken

Its CEO

**Executive:**

/s/ Scott Mullen

Scott Mullen

**EXHIBIT A**  
**EMPLOYMENT AGREEMENT**  
**DEFINITIONS**

"Approved Change in Control" of Bandwidth means a Change in Control of Bandwidth of a nature that would be required to be reported in response to Item 5.01 of the Current Report on Form 8-K, as if in effect on the Effective Date, pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") if the transaction causing such a change will have been approved by the affirmative vote of at least a majority of the Continuing Directors.

"Change in Control" means, and will be deemed to have occurred at such time as: (i) any "person" (as such term is used in Section 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of fifty percent (50%) or more prior to Bandwidth's first underwritten public offering and twenty-five percent (25%) or more after, but not as a result of, Bandwidth's first underwritten public offering, or more of the combined voting power of Bandwidth's Voting Securities; (ii) sale of all or substantially all of the assets of Bandwidth, or any merger, consolidation, or reorganization to which Bandwidth is a party and as the result of which Bandwidth's stockholders prior to the transaction do not own at least fifty percent (50%) of the voting power of the surviving entity in the election of directors; or (iii) individuals who constitute the Continuing Directors cease for any reason to constitute at least a majority of Bandwidth's Board of Directors. Notwithstanding the foregoing, no event unilaterally caused by Executive by virtue of his stock ownership will be a Change in Control. Further notwithstanding the foregoing, a Change in Control shall not be deemed to occur unless the transaction also constitutes a change in the ownership or effective control of Bandwidth or a change in the ownership of a substantial portion of the assets of Bandwidth, each as defined in Code Section 409A(a)(2)(A)(v) and the regulations promulgated thereunder; however, a Change in Control shall be deemed to occur if the transaction constitutes a change in the ownership or effective control of Bandwidth or a change in the ownership of a substantial portion of the assets of Bandwidth, each as defined in Code Section 409A(a)(2)(A)(v) and the regulations promulgated thereunder, regardless of whether it satisfies the foregoing.

"Budget" will mean for each year, Bandwidth's management financial targets approved by the Board of Directors for the year in question.

"Confidential Information" means all information or trade secrets of any type or description belonging to Bandwidth that are proprietary and confidential to Bandwidth and are not publicly disclosed or are only disclosed with restrictions. Without limiting the generality of the foregoing, Confidential Information includes strategic plans for carrying on business, other business plans, cost data, internal financial information, customer lists, employee lists, vendor lists, business partner or alliance lists, drawings, designs, schematics, flow charts, specifications, inventions, calculations, discoveries and any letters, papers, documents or instruments disclosing or reflecting any of the foregoing, and all information revealed to, acquired or created by Executive during Executive's employment by Bandwidth relating to any of the foregoing.

"Continuing Directors" will mean and include the persons constituting Bandwidth's Board of Directors as of the Effective Date, and any person who becomes a director of Bandwidth subsequent to the

date hereof whose election, or nomination for election by Bandwidth's stockholders, was approved by an affirmative vote of at least a majority of the then Continuing Directors (either by a specific vote or if Bandwidth is then subject to the proxy rules of the Exchange Act then by approval of the proxy statement of Bandwidth in which such person is named as a nominee for director or of the inclusion of such person in such Proxy Statement as such a nominee, in any case without objection by any member of such approving majority of the then Continuing Directors to the nomination of such person or the naming of such person as a director nominee).

"Good Reason" means that if, at any time during the Employment Period without Executive's consent, Bandwidth (i) assigns Executive to serve in a capacity other than as the Company's Chief Technology Officer or assigns Executive to perform tasks inconsistent with such position, in each case, which results in a material overall diminution in Executive's authority, duties or responsibilities, or (ii) Bandwidth materially breaches any provision of this Agreement, then Executive may resign his employment by providing notice to Bandwidth within thirty (30) days of such event of the reasons for his resignation under this provision. Bandwidth shall have thirty (30) days following receipt of such notice to remedy and cure the alleged diminution or breach. If Bandwidth does not cure such breach, Executive shall resign his employment within thirty (30) days of Bandwidth's cure period, and such resignation will be deemed to be a resignation by Executive for Good Reason.

"Operating Earnings" will mean earnings before interest, taxes, depreciation and amortization and excluding (i) capital expenditures, (ii) extraordinary gains and losses, and (iii) any bonus(es) paid or payable pursuant to Section 3.5 and/or Section 3.6 of the agreement to which this Exhibit A is attached, unless Bandwidth has accrued for the payment of such bonus(es) in connection with Bandwidth's calculation of Operating Earnings target for the purposes of Section 3.2.

"Unapproved Change in Control" of Bandwidth will mean any Change in Control of Bandwidth that is not an Approved Change in Control.

"Voting Securities" means Bandwidth's outstanding securities ordinarily having the right to vote at elections of directors.

**EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT (this "Agreement") is made and entered into as of February 24, 2022, by and between Bandwidth Inc. ("Bandwidth"), a Delaware corporation with its principal place of business at 900 Main Campus Drive, Suite 100, Raleigh, North Carolina 27606, and R. Brandon Asbill ("Executive").

**BACKGROUND**

A. Executive is employed as Bandwidth's General Counsel.

B. Bandwidth and Executive now desire to enter into this Agreement in order to formalize the terms and conditions of Executive's employment pursuant to this Agreement.

C. All initially capitalized terms are either defined herein (but not necessarily where first used) or are defined in **Exhibit A** attached hereto and incorporated herein by this reference.

**AGREEMENT**

In consideration of the foregoing, the agreements made herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Employment Period.** Bandwidth agrees to a continuation of Executive's employment, and Executive agrees to continue to serve Bandwidth as General Counsel, for the period beginning on February 24, 2022 (or such other date as mutually agreed between Executive and Bandwidth, the "Effective Date") and ending at 11:59 p.m., Raleigh, North Carolina, local time, on December 31, 2022 (as may be extended, the "Employment Period"). The Employment Period will automatically extend for consecutive additional one (1) year periods unless either party provides the other with written notice to the contrary no less than sixty (60) days prior to the expiration of the then current Employment Period. If notice of non-extension is provided by Bandwidth, this Agreement and Executive's employment shall terminate at the end of the then current Employment Period, and such termination of employment shall be treated as a termination by Bandwidth other than for Cause. This Agreement may be terminated before the expiration of the Employment Period only pursuant to Section 4. Bandwidth and Executive each acknowledges and agrees that this Agreement does not interrupt the continuity of Executive's employment.

2. **Nature of Duties.**

2.1 During the Employment Period, Executive will serve as Bandwidth's General Counsel. As such, Executive will act in conformity with the management policies, guidelines and directions issued by Bandwidth's Chief Executive Officer (the "Chief Executive Officer"), and will have general charge and supervision of those functions and such other responsibilities as the Chief Executive Officer determines and assigns. Executive will report to the Chief Executive Officer.

2.2 Executive will work exclusively for Bandwidth on a full-time basis, with his primary office at Bandwidth's office in Raleigh, North Carolina. During normal business hours, Executive will devote substantially all of his business time and attention to Bandwidth's business. The foregoing does not prohibit Executive from engaging in civic, professional and business activities that do not interfere with his duties to Bandwidth, and that otherwise do not violate this Agreement.

2.3 Executive will perform his duties and responsibilities hereunder diligently, faithfully and loyally.

### **3. Compensation and Benefits.**

#### **3.1 Base Salary and Expenses.**

3.1.1 During the Employment Period, Bandwidth will pay to Executive a salary at the initial rate of \$357,200 per annum (the "Base Salary"). The Base Salary will be earned and paid in equal installments, semi-monthly, or at such other interval as the Bandwidth's Board of Directors (the "Board") or Compensation Committee of the Board (the "Compensation Committee") directs, but no less often than once each month. At the beginning of each year during the Employment Period, the Chief Executive Officer will in good faith review the Base Salary and recommend to the Board and/or Compensation Committee any increases (but not decreases) for determination by the Board and/or the Compensation Committee. Bandwidth shall be entitled to withhold, or cause to be withheld, any amount of federal, state, city or other withholding taxes or other amounts either required by law or authorized by Executive with respect to payments made to Executive in connection with his employment hereunder.

3.1.2 Bandwidth will reimburse Executive for all reasonable out-of-pocket business expenses incurred by Executive on Bandwidth's behalf during the Employment Period, so long as such expenses are reimbursable under Bandwidth's policies in effect from time to time. At Executive's request, expenses will be advanced before an expenditure is incurred, or they will be paid by Bandwidth directly to third parties from which goods or services are being obtained.

#### **3.2 Bonus Compensation.**

3.2.1 In addition to the Base Salary, Bandwidth will pay to Executive bonus compensation each year during the Employment Period of up to 50% (the "Target Bonus") of the Base Salary pursuant to Bandwidth's Management By Objective ("MBO") Plan (the "MBO Bonus Compensation").

3.2.2 MBO Bonus Compensation for a given year will be earned, if at all, based upon satisfaction of Executive's individual performance objectives and Bandwidth's corporate objectives, with each component weighted as set forth in the MBO Plan approved by the Compensation Committee. The portion of MBO Bonus Compensation based on Executive's individual performance objectives will be earned pro-rata upon Executive attaining each objective, as reasonably determined by the Chief Executive Officer, who will make recommendations to the Compensation Committee as to Executive's satisfaction of such individual performance objectives. The portion of MBO Bonus Compensation based on corporate objectives will be earned pro-rata based on the achievement, and weighting, of Bandwidth's corporate objectives as reasonably determined by the Chief Executive Officer, who will make recommendations to the Compensation Committee as to Bandwidth's satisfaction of its corporate objectives. . Executive may receive more than the Target Bonus if Bandwidth exceeds its corporate objectives for a given year. Solely by way of example, if Bandwidth achieves one hundred percent (100%) of each of the corporate objectives established from time to time and Executive achieves one hundred one percent (101%) of Executive's personal objectives, the MBO Bonus Compensation would be calculated by multiplying



Executive's Target Bonus by 1.01. Notwithstanding the foregoing, the Compensation Committee may in its discretion limit the extent to which the Target Bonus may be exceeded.

The Chief Executive Officer from time to time may recommend for consideration by the Compensation Committee the inclusion of additional corporate objectives or changes to the weighting of corporate objectives.

3.2.3 Notwithstanding anything to the contrary herein, (a) the Compensation Committee will have final approval of MBO Bonus Compensation, if any, to be paid to Executive, and (b) Bandwidth may alter the bonus compensation programs applicable to Executive, or any components thereof, at any time in its discretion.

3.2.4 Any MBO Compensation will be paid no later than March 15<sup>th</sup> of the year succeeding the calendar year with respect to which the MBO Bonus Compensation, if any, is earned.

3.2.5 In addition to the MBO Bonus Compensation, the Chief Executive Officer will from time to time review Executive's efforts on behalf of Bandwidth and may make recommendations to the Board and/or the Compensation Committee for determination by the Board and/or the Compensation Committee a special bonus for extraordinary service. Special bonuses, if any, will not count as any other compensation payable under this Agreement.

### 3.3 Restricted Stock Units.

3.3.1 Prior to the date of this Agreement, Bandwidth has granted Executive certain awards of restricted stock units (the "RSUs") under Bandwidth's 2017 Incentive Award Plan, as amended and/or restated.

3.3.2 Upon a Qualifying Termination (as defined below) other than in connection with a Change in Control, the RSUs and any other equity award granted to Executive by Bandwidth that is scheduled to vest solely based on the passage of time (as opposed to performance goals) will become vested, subject to the release requirement below, with respect to that portion of the award that is scheduled to vest within six (6) months following Executive's termination.

3.3.3 All of Executive's unvested RSU's and any other equity award granted to Executive by Bandwidth that is scheduled to vest solely based on the passage of time (as opposed to performance goals) will become fully vested upon the earlier of (a) Executive's death prior to termination or expiration of this Agreement, or (b) a Qualifying Termination of Executive that occurs within twelve (12) months following a Change in Control.

3.3.4 This Section 3.3 is intended to be an award agreement itself, and is intended to supplement the terms and conditions of any and all other award agreements between Bandwidth and Executive relating to any options or restricted stock granted to Executive by Bandwidth, and the terms of this Section 3.3 will govern the terms of such other award agreements in the event of any conflicts, regardless of whether such other agreements are heretofore or have previously been entered into by the parties.

### 3.4 Cash Severance Benefits.

3.4.1 If Bandwidth terminates Executive other than for Cause, or Executive resigns for Good Reason (either, a "Qualifying Termination"), including with respect to a Qualifying Termination that occurs within twelve (12) months following a Change in Control, then Bandwidth will pay to Executive an amount in cash ("Severance") equal to (i) one hundred percent (100%) of the then-current Base Salary, plus (ii) one hundred percent (100%) of the Target Bonus, plus (iii) a healthcare stipend, grossed up for

taxes, in an amount sufficient to facilitate Executive's purchase of healthcare coverage of his choice (including COBRA) comparable to his then-current coverage for a period of twelve (12) months, plus (iv) a life insurance stipend, grossed up for taxes, in an amount sufficient to reimburse Executive for twelve (12) months of premiums for the continuation of the life insurance coverage Bandwidth had in effect for Executive as of the date of his termination of employment. Such amount, less any applicable taxes and other similar amounts, will be paid in equal installments over a twelve (12) month period following the termination in accordance with Bandwidth's standard payroll practices and procedures.

3.4.2 Notwithstanding anything to the contrary in this Agreement, the receipt of any Severance and the acceleration of any equity vesting, in whole or in part, provided for pursuant to this Agreement or otherwise will be dependent upon Executive's delivery to Bandwidth of an effective general release of claims substantially in the form attached hereto as Exhibit B not later than sixty (60) days after the date of Executive's termination of employment (or such longer period as may be required by applicable law), and shall be paid or commence no later than thirty (30) days thereafter, with the first payment to include any amounts that would have been payable on payroll dates occurring after Executive's termination of employment and prior to such first payment.

3.5 Annual Equity Awards. During the Employment Period, Bandwidth will consider granting Executive annual equity-based awards.

3.6 Vacation. During the Employment Period, Executive will be entitled to take vacation time in accordance with Bandwidth's policies, but no less than 20 days of paid vacation per year. Bandwidth and Executive will reasonably agree on when vacation time can be taken, and how many weeks can be taken consecutively. In the event that all or any part of the vacation is not taken for any reason during any year, there will be no compensation paid in lieu thereof, and accrued and unused vacation time will not be carried over and added to the vacation time for the succeeding year in accordance with such policy, unless otherwise approved by the Chief Executive Officer.

3.7 Health, Disability, Retirement, Death and Insurance Benefits. Bandwidth will provide Executive with the same health, disability, retirement, death and other fringe benefits as are generally provided to the executive employees of Bandwidth in accordance with such terms, conditions and eligibility requirements as may from time to time be established or modified by Bandwidth; provided, that Bandwidth will pay the entire premium for Executive's then-current coverage under Bandwidth's group health insurance plan unless Bandwidth reasonably determines that paying the entire premium would be discriminatory and could subject Executive to adverse income tax consequences.

3.8 Indemnification. During the Employment Period and after Executive's termination of employment, Bandwidth shall indemnify Executive and hold Executive harmless from and against any claim, loss or cause of action arising from or out of Executive's performance as an officer, director or employee of Bandwidth or any of its subsidiaries or other affiliates or in any other capacity, including any fiduciary capacity, in which Executive serves at Bandwidth's request, in each case to the maximum extent permitted by law and under Bandwidth's Certificate of Incorporation and By-Laws. This indemnification right is in addition to any similar rights under any statute, Bandwidth's Certificate of Incorporation, By-Laws and under any other applicable agreements that now exist or may exist from time to time. During the Employment Period and for at least 3 years following Executive's termination of employment, Executive shall be covered by any policy of directors' and officers' liability insurance maintained by Bandwidth for the benefit of its officers and directors.

#### 4. Termination.

4.1 Executive's employment with Bandwidth will terminate automatically upon Executive's death.

4.2 Bandwidth may terminate Executive's employment at any time.

4.3 If at any time during the Employment Period Bandwidth (i) assigns Executive to serve in a capacity other than as Bandwidth's General Counsel or assigns Executive to perform tasks inconsistent with such position, in each case, which results in a material diminution in Executive's authority, duties or responsibilities, or (ii) Bandwidth materially breaches any provision of this Agreement (either such circumstance referred to herein as "Good Reason"), then Executive may resign his employment by providing notice to Bandwidth within thirty (30) days of such event of the reasons for his resignation under this provision. Bandwidth shall have thirty (30) days following receipt of such notice to remedy and cure the alleged diminution or breach. If Bandwidth does not cure such breach, Executive shall resign his employment and such resignation will be deemed to be a termination by Bandwidth other than for Cause and/or a resignation by Executive for Good Reason. Executive can resign at any time other than for Good Reason.

4.4 Bandwidth will have the right to terminate Executive at any time, immediately, for Cause. "Cause" will mean: (i) Executive is convicted of any felony (or Executive pleads guilty or nolo contendere thereto); (ii) Executive fails or refuses to perform, in any material respect, the written policies or directives of the Chief Executive Officer, unless such failure is corrected within thirty (30) days following his receipt of written notice of such failure from Bandwidth that specifically identifies the manner in which the Chief Executive Officer believes Executive has substantially failed to materially perform his duties; (iii) Executive materially breaches this Agreement or any other agreement between Bandwidth and Executive, including, without limitation, any applicable nondisclosure agreement, unless such failure is corrected within thirty (30) days following his receipt of written notice of such failure from Bandwidth that specifically identifies the manner in which the Chief Executive Officer believes Executive has breached the agreement; or (iv) there exists gross or willful misconduct by Executive with regard to Bandwidth or any employee of Bandwidth that is materially injurious to Bandwidth or such employee.

#### **5. Effects of Termination.**

5.1 Upon Executive's termination of employment for any reason (including death), he will be entitled to receive (in addition to any compensation and benefits he is entitled to receive under Section 3 above, if applicable): (i) any earned but unpaid Base Salary, (ii) any earned but unpaid Bonus Compensation, (iii) unreimbursed business expenses in accordance with Bandwidth's policies for which expenses Executive has provided appropriate documentation, (iv) a lump sum cash amount equal to the value of his unused vacation days in accordance with the standard written policy of Bandwidth, and (v) any vested amounts or benefits to which Executive is then entitled under the terms of the benefit plans then sponsored by Bandwidth in accordance with their terms. All of Bandwidth's other obligations under this Agreement will end immediately upon Executive's termination of employment. Notwithstanding the foregoing, the provisions of Section 3.8 hereof, to the extent such provisions by their terms call for performance subsequent to termination of Executive's employment hereunder, or of this Agreement, shall survive such termination.

5.2 Any controversy or claim arising out of or relating to the benefits and entitlements of Executive following a Change of Control will be resolved by binding arbitration in Raleigh, North Carolina with the American Arbitration Association, pursuant to their commercial arbitration rules then in effect. The determination of the arbitrator will be conclusive and binding on Bandwidth and Executive, and judgment may be entered on the arbitrator's award in any court of competent jurisdiction. The prevailing party may recover its attorneys' fees and expenses incurred in such dispute, including the cost of the Arbitration if the prevailing party initiated the action.

## 6. Covenant Not To Compete.

6.1 Inducement. This covenant between Executive and Bandwidth is being executed and delivered by Executive in consideration of Executive's employment with Bandwidth and each party's rights and obligations agreed to hereunder (including, without limitation, the Base Salary, MBO Compensation and other benefits and payments set forth herein). Executive acknowledges that Bandwidth's business and Executive's responsibilities are international in scope. Executive further acknowledges that the covenant not to compete with Bandwidth contained in this Section 6 was and has been a condition of his employment since Executive was originally employed by Bandwidth.

6.2 Restricted Activities – Duration. Except as otherwise consented to or approved by the Chief Executive Officer in writing, Executive agrees that during the term of this Agreement and for twelve (12) months after Executive's employment with Bandwidth ends, regardless of the time, manner or reasons for termination, and regardless of whether terminated by Executive or Bandwidth, but only so long as Bandwidth does not breach its obligations in this Agreement, Executive will not, directly or indirectly, acting alone or as a member of a partnership or as an owner, director, officer, employee, manager, representative or consultant of any corporation or other business entity:

6.2.1 engage in any business in competition with the business that is conducted by Bandwidth in the United States, Canada or any European, Asian, Pacific or other foreign country in which Bandwidth then or thereafter transacts business or is making a bona fide attempt to do so;

6.2.2 induce, request or attempt to influence any customers or suppliers of Bandwidth to curtail or cancel their business or prospective business with Bandwidth or in any way interfere with Bandwidth's business relationships; or

6.2.3 induce, solicit, assist or facilitate the inducement or solicitation by a third person of any employee, officer, agent or representative of Bandwidth, to terminate their respective relationship with Bandwidth or in any way interfere with Bandwidth's employee, officer, agent or representative relationships.

6.3 Tolling; Relief of Obligations. In the event that Executive breaches any provision of this Section 6, that violation will toll the running of the restricted period set forth in Section 6.2 from the date of commencement of such violation until such violation ceases.

6.4 "Blue Penciling" or Modification. If the length of time, geographic area or scope of restricted business activity set forth in Section 6.2 is deemed unreasonably restrictive or unreasonable in any other respect in any court proceeding, Executive and Bandwidth agree and consent to such court's modifying or reducing such restriction(s) to the extent deemed reasonable under the circumstances then presented. Executive agrees and acknowledges that for purposes of this Section 6, Executive is an executive, manager or officer of Bandwidth.

6.5 Definitions. As used in this Section 6, the following terms will have the following definitions:

(i) The terms "compete" or "in competition," as used herein, will be deemed to include, without limitation, becoming or being an employee, owner, partner, consultant, agent, stockholder, director, or officer of any person, partnership, firm, corporation or other entity (other than Bandwidth) which engages in (i) the business of developing, providing, offering and selling (A) retail VoIP services, including, without limitation, IP based unified communications services and trunking services; wholesale VoIP services; (B) wholesale origination, termination or SMS services; (C) emergency solutions for telecommunications carriers, including, without limitation, end-to-end call

control and support, real-time address validation, automated provisioning and/or geospatial routing; (D) communication platform as a service (or CPaaS) solutions, including, without limitation, application program interfaces deploying, causing the use of, or using origination, termination, or SMS services; and/or (E) product(s) or service(s) to which any of clauses (A) through (D) apply and/or any product(s) or service(s) that perform substantially similar functions to which any of clauses (A) through (D) apply, or (ii) any other business conducted by Bandwidth immediately prior to such termination (or in which Bandwidth shall at such time be actively preparing to engage). Notwithstanding the foregoing, ownership of five (5%) percent or less of any class of securities of an entity will not constitute competition with Bandwidth.

(ii) The phrases “engage in a business” or “engage in a line of business” and similar phrases will be deemed to include marketing or otherwise selling products or researching, writing, developing, designing, distributing, testing or manufacturing products or services or otherwise preparing to market or sell products or services.

#### **7. Nondisclosure of Confidential Information.**

7.1 Executive acknowledges that the discharge of his duties under this Agreement will necessarily involve his access to Confidential Information. Executive acknowledges that the unauthorized use by him or disclosure by him of such Confidential Information to third parties might cause irreparable damage to Bandwidth and Bandwidth's business. Accordingly, Executive agrees that at all times after the date hereof he will not copy, publish, disclose, divulge to or discuss with any third party nor use for his own benefit or that of others, without the prior express written consent of the Chief Executive Officer, except in the normal conduct of his duties under this Agreement, any Confidential Information, it being understood and acknowledged by Executive that all Confidential Information created, compiled or obtained by Executive or Bandwidth, or furnished to Executive by any person while Executive is associated with Bandwidth remains its exclusive property.

7.2 Promptly upon termination of his employment, irrespective of the time or manner thereof or reason therefor, and whether such termination is by Bandwidth or Executive, Executive agrees to return and surrender to Bandwidth all tangible Confidential Information in any manner in his control or possession, as well as all other Bandwidth property.

7.3 Pursuant to the Defend Trade Secrets Act of 2016, Executive understands that:

An individual may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

Further, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to the attorney and use the trade secret information in the court proceeding if the individual: (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

#### **8. Remedies Inadequate.**

8.1 Executive acknowledges that the services to be rendered by him to Bandwidth as contemplated by this Agreement are special, unique and of extraordinary character. Executive expressly agrees and understand that the remedy at law for any breach by him of Section 6 or 7 of this Agreement will be inadequate and that the damages flowing from such breach are not readily susceptible to being measured in monetary terms. Accordingly, upon adequate proof of Executive's violation of any legally

enforceable provision of Section 6 or 7, Bandwidth will be entitled to immediate injunctive relief, including, without limitation, a temporary order restraining any threatened or further breach. In the event any equitable proceedings are brought to enforce the provisions of any of Section 6, 7 or 8, Executive agrees that he will not raise in such proceedings any defense that there is an adequate remedy at law, and Executive hereby waives any such defense. Nothing in this Agreement will be deemed to limit Bandwidth's remedies at law or in equity for any breach by Executive of any of the provisions of Section 6 or 7 which may be pursued or availed of by Bandwidth. Without limiting the generality of the immediately preceding sentence, any covenant on Executive's part contained in Section 6 or 7, which may not be specifically enforceable will nevertheless, if breached, give rise to a cause of action for monetary damages.

8.2 Executive has carefully considered, and has had adequate time and opportunity to consult with his own counsel or other advisors regarding the nature and extent of the restrictions upon him and the rights and remedies conferred upon Bandwidth under Sections 6, 7 and 8, and hereby acknowledges and agrees that such restrictions are reasonable in time, territory and scope, are designed to eliminate competition which otherwise would be unfair to Bandwidth, do not stifle the inherent skill and experience of Executive, would not operate as a bar to Executive's sole means of support, are fully required to protect the legitimate interests of Bandwidth and do not confer a benefit upon Bandwidth disproportionate to the detriment to Executive.

8.3 The covenants and agreements made by Executive in Sections 6, 7 and 8 will survive full payment by Bandwidth to Executive of the amounts to which Executive is entitled under this Agreement, the expiration of the Employment Period and this Agreement.

9. **Rights.** Executive acknowledges and agrees that any procedure, design feature, schematic, invention, improvement, development, discovery, know how, concept, idea or the like (whether or not patentable, registrable under copyright or trademark laws, or otherwise protectable under similar laws) that Executive may conceive of, suggest, make, invent, develop or implement, during the course of his service pursuant to this Agreement (whether individually or jointly with any other person or persons), relating in any way to the business of Bandwidth or to the general industry of which Bandwidth is a part, as well as all physical embodiments and manifestations thereof, and all patent rights, copyrights, trademarks (or applications thereof) and similar protections therein (all of the foregoing referred to as "Work Product"), will be the sole, exclusive and absolute property of Bandwidth. All Work Product will be deemed to be works for hire and, in addition to the Work Product being works for hire, Executive hereby assigns to Bandwidth all right, title and interest in, to and under such Work Product, including without limitation, the right to obtain such patents, copyright registrations, trademark registrations or similar protections as Bandwidth may desire to obtain. Executive will immediately disclose all Work Product to Bandwidth and agrees, at any time, upon Bandwidth's request and without additional compensation, to execute any documents and otherwise to reasonably cooperate with Bandwidth respecting the perfection of its right, title and interest in, to and under such Work Product, and in any litigation or controversy in connection therewith, all expenses incident thereto to be borne by Bandwidth.

10. **Assignment of Payment Rights.** In no event will Bandwidth be obligated to make any payment under this Agreement to any assignee or creditor of Executive, other than to the estate of Executive after his death. Prior to the time of payment under this Agreement, neither Executive nor his legal representative will have any right by way of anticipation or otherwise to dispose of any interest under this Agreement.

11. **Bandwidth's Obligations Unfunded.** Except as to any benefits that may be required to be funded under any benefit plan of Bandwidth pursuant to law, as provided for in this Agreement or pursuant to other agreements and which are not for the sole benefit of Executive, the obligations of Bandwidth under this Agreement are not funded and Bandwidth will not be required to set aside or deposit in escrow any monies in advance of the due date for payment thereof to Executive.

**12. Notices.** Any notice to be given hereunder by Bandwidth to Executive will be deemed to be given if delivered to Executive in person, if emailed to Executive at his business email address or if mailed or overnighted to Executive at his address last known on the records of Bandwidth, and any notice to be given by Executive to Bandwidth will be directed either to Bandwidth's Chief Executive, Secretary or General Counsel, and in any case it will be deemed to be given if delivered in person, if emailed to the address at his business email address or if mailed or overnighted to the person at his address last known on the records of Bandwidth, unless any party will have duly notified the other parties in writing of a change of address. All notices are deemed given when delivered to such address, or if otherwise actually received by the addressee.

**13. Section 409A.**

13.1 In order to ensure compliance with Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Section 409A"), the provisions of this Section 13 shall govern in all cases over any contrary or conflicting provision in this Agreement (other than a comparable Section 409A provision that is expressly intended to govern over this provision by its terms). The intent of the parties is that payments and benefits under this Agreement comply with, or be exempt from, Section 409A and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted and administered to be in compliance therewith. Executive acknowledges and agrees that Bandwidth has made no representation to Executive as to the tax treatment of the compensation and benefits provided pursuant to this Agreement and that Executive is solely responsible for all taxes due with respect to such compensation and benefits.

13.2 To the extent necessary to comply with Section 409A, references in this Agreement to "termination of employment" or "terminates employment" (and similar references) shall have the same meaning as "separation from service" under Code Section 409A(a)(2)(A)(i), and no payment subject to Section 409A that is payable upon a termination of employment shall be paid unless and until (and not later than applicable in compliance with Section 409A) when Executive incurs a "separation from service" under Code Section 409A(a)(2)(A)(i) (a "Separation from Service"). In addition, if Executive is a "specified employee" within the meaning of Section 409A at the time of his Separation from Service, any nonqualified deferred compensation subject to Section 409A that would otherwise have been payable on account of, and within the first six months following, Executive's Separation from Service, and not by reason of another event under Section 409A, will become payable on the first business day after six months following the date of Executive's Separation from Service or, if earlier, the date of Executive's death.

13.3 Consistent with the requirements of Section 409A, to the extent that any reimbursement or in-kind benefit provided is taxable and subject to Section 409A, unless stated otherwise: (i) reimbursements and in-kind benefits will be provided only during the period during which Executive is employed or receiving Severance; (ii) the expenses eligible for reimbursement or the in-kind benefits provided in any given calendar year will not affect the expenses eligible for reimbursement or the in-kind benefits provided in any other calendar year; (iii) the reimbursement of an eligible expense must be made no later than the last day of calendar year following the calendar year in which the expense was incurred; and (iv) the right to reimbursements or in-kind benefits cannot be liquidated or exchanged for any other benefit.

13.4 Executive's right to receive any installment payments under this Agreement, including without limitation any continuation salary payments that are payable on Bandwidth payroll dates, shall be treated as a right to receive a series of separate payments and, accordingly, each such installment payment shall at all times be considered a separate and distinct payment as permitted under Section 409A. Except as otherwise permitted under Section 409A, no payment hereunder shall be accelerated or deferred unless such acceleration or deferral would not result in additional tax or interest pursuant to Section 409A.

13.5 In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement that is considered nonqualified deferred compensation subject to Section 409A. In no event shall the timing of Executive's execution of the general release of claims, directly or indirectly, result in Executive designating the calendar year of payment of any nonqualified deferred compensation subject to Section 409A, and if such a payment that is subject to execution of the general release of claims could be made in more than one taxable year, payment shall be made in the later taxable year.

14. **Amendments.** This Agreement will not be modified or discharged, in whole or in part, except by an agreement in writing signed by all parties.

15. **Entire Agreement.** Except as expressly provided for herein, this Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. The parties are not relying on any other representation, express or implied, oral or written. This Agreement supersedes any prior employment agreement, written or oral, between Executive and Bandwidth; provided, however that other non-competition, non-solicitation, confidentiality agreements, and other restrictive covenant agreements between Executive and Bandwidth remain in effect and this Agreement and such other agreements may be enforced by Bandwidth independently or simultaneously.

16. **Captions; Terms.** The captions contained in this Agreement are for convenience of reference only and do not affect the meaning of any terms or provisions hereof. References to "termination of employment," "termination of Executive," "termination of this Agreement," "termination of the Employment Period," and any other terms of similar meaning will all be deemed equivalent. Masculine, feminine and neuter pronouns are interchangeable as context requires.

17. **Binding Effect.** The parties may not assign this Agreement and may not assign or delegate any right or duty hereunder and any attempt to do so is void. Subject to the foregoing, the rights and obligations of Bandwidth hereunder will inure to the benefit of, and will be binding upon, Bandwidth and its successors and assigns, and the rights and obligations of Executive hereunder will inure to the benefit of, and will be binding upon, Executive and his heirs, personal representatives and estate.

18. **Severable Provisions.** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions and any partially enforceable provision will be binding and enforceable to the extent enforceable in any jurisdiction.

19. **Governing Law and Venue.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of North Carolina, without regard to conflict of laws. Other than disputes that by the terms of this Agreement are to be resolved through binding arbitration, any and all actions brought arising out of, or based in whole or in part upon this Agreement or the employment relationship between Executive and Bandwidth, will be brought in either a federal or state court sitting in Raleigh, North Carolina, and the parties consent to jurisdiction and venue thereof.



IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written, effective the Effective Date.

**Bandwidth Inc.**

**BANDWIDTH INC.**

By /s/ Rebecca Bottorff  
Rebecca Bottorff  
Chief People Officer

**Executive:**

/s/ R. Brandon Asbill  
R. Brandon Asbill

**EXHIBIT A  
EMPLOYMENT AGREEMENT  
DEFINITIONS**

"Change in Control" means, and will be deemed to have occurred at such time as: (i) any "person" (as such term is used in Section 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of twenty-five percent (25%) or more of the combined voting power of Bandwidth's Voting Securities; (ii) sale of all or substantially all of the assets of Bandwidth, or any merger, consolidation, or reorganization to which Bandwidth is a party and as the result of which Bandwidth's stockholders prior to the transaction do not own at least fifty percent (50%) of the voting power of the surviving entity in the election of directors; or (iii) individuals who constitute the Continuing Directors cease for any reason to constitute at least a majority of Bandwidth's Board of Directors. Notwithstanding the foregoing, no event unilaterally caused by Executive by virtue of his stock ownership will be a Change in Control. Further notwithstanding the foregoing, a Change in Control shall not be deemed to occur unless the transaction also constitutes a change in the ownership or effective control of Bandwidth or a change in the ownership of a substantial portion of the assets of Bandwidth, each as defined in Code Section 409A(a)(2)(A)(v) and the regulations promulgated thereunder; however, a Change in Control shall be deemed to occur if the transaction constitutes a change in the ownership or effective control of Bandwidth or a change in the ownership of a substantial portion of the assets of Bandwidth, each as defined in Code Section 409A(a)(2)(A)(v) and the regulations promulgated thereunder, regardless of whether it satisfies the foregoing.

"Confidential Information" means all information or trade secrets of any type or description belonging to Bandwidth that are proprietary and confidential to Bandwidth and are not publicly disclosed or are only disclosed with restrictions. Without limiting the generality of the foregoing, Confidential Information includes strategic plans for carrying on business, other business plans, cost data, internal financial information, customer lists, employee lists, vendor lists, business partner or alliance lists, drawings, designs, schematics, flow charts, specifications, inventions, calculations, discoveries and any letters, papers, documents or instruments disclosing or reflecting any of the foregoing, and all information revealed to, acquired or created by Executive during Executive's employment by Bandwidth relating to any of the foregoing.

"Continuing Directors" will mean and include the persons constituting Bandwidth's Board of Directors as of the Effective Date, and any person who becomes a director of Bandwidth subsequent to the date hereof whose election, or nomination for election by Bandwidth's stockholders, was approved by an affirmative vote of at least a majority of the then Continuing Directors (either by a specific vote or if Bandwidth is then subject to the proxy rules of the Exchange Act then by approval of the proxy statement of Bandwidth in which such person is named as a nominee for director or of the inclusion of such person in such Proxy Statement as such a nominee, in any case without objection by any member of such approving majority of the then Continuing Directors to the nomination of such person or the naming of such person as a director nominee).

"Voting Securities" means Bandwidth's outstanding securities ordinarily having the right to vote at elections of directors.

**EXHIBIT B  
FORM OF RELEASE**

**Separation Agreement and Release**

**This Separation Agreement and Release** (“Agreement”) is made by and between R. Brandon Asbill (“Executive”) and Bandwidth Inc. (the “Company”) (collectively referred to as the “Parties” or individually referred to as a “Party”). Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the Employment Agreement (as defined below).

WHEREAS, the Parties have previously entered into that certain Employment Agreement, dated as of February 24, 2022 (the “Employment Agreement”); and

WHEREAS, in connection with Executive’s termination of employment with the Company or a subsidiary or affiliate of the Company effective \_\_\_\_\_, \_\_\_\_\_, the Parties wish to resolve any and all disputes, claims, complaints, grievances, charges, actions, petitions, and demands that Executive may have against the Company and any of the Releasees as defined below, including, but not limited to, any and all claims arising out of or in any way related to Executive’s employment with or separation from the Company or its subsidiaries or affiliates but, for the avoidance of doubt, nothing herein will be deemed to release any rights or remedies in connection with Executive’s ownership of vested equity securities of the Company, Executive’s right to indemnification, advancement of expenses, claims for coverage and similar rights under Section 3.8.1 of the Employment Agreement, the constituent documents of the Company or any of its subsidiaries or affiliates pursuant to contract or applicable law, under any insurance policies maintained by the Company or any of its subsidiaries or affiliates, or Executive’s rights to receive the payments and benefits described in Sections 3.3.2 and 3.4 of the Employment Agreement (collectively, the “Retained Claims”).

NOW, THEREFORE, in consideration of the severance payments and benefits described in Section 3.3.2 and Section 3.4 of the Employment Agreement, which, pursuant to the Employment Agreement, are conditioned on Executive’s execution and non-revocation of this Agreement, and in consideration of the mutual promises made herein, the Company and Executive hereby agree as follows:

1. **Severance Payments; Salary and Benefits.** The Company agrees to provide Executive with the severance payments and benefits described in Sections 3.3.2 and 3.4 of the Employment Agreement, vesting or payable at the times set forth in, and subject to the terms and conditions of, the Employment Agreement. In addition, to the extent not already paid, and subject to the terms and conditions of the Employment Agreement, the Company shall pay or provide to Executive all other payments or benefits described in Section 5.1 of the Employment Agreement, subject to and in accordance with the terms thereof.

2. **Release of Claims.** Executive agrees that, other than with respect to the Retained Claims, the foregoing consideration represents settlement in full of all outstanding obligations owed to Executive by the Company, any of its direct or indirect subsidiaries and affiliates, and any of its or their respective current and former officers, directors, equity holders, managers, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, insurers, trustees, divisions, and subsidiaries and predecessor and successor corporations and assigns (collectively, the “Releasees”). Executive, on Executive’s own behalf and on behalf of any of Executive’s affiliated companies or entities and any of Executive’s or their respective heirs, family members, executors, agents, and assigns, other than with respect to the Retained Claims, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Executive may possess against any of the Releasees arising from any

omissions, acts, facts, or damages that have occurred up until and including the date Executive signs this Agreement, including, without limitation:

(a) any and all claims relating to or arising from Executive's employment or service relationship with the Company or any of its direct or indirect subsidiaries or affiliates and the termination of that relationship;

(b) any and all claims relating to, or arising from, Executive's right to purchase, or actual purchase of any shares of stock or other equity interests of the Company or any of its affiliates, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

(c) any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; harassment; retaliation; breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion; and disability benefits;

(d) any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Credit Reporting Act; the Age Discrimination in Employment Act of 1967; the Older Workers Benefit Protection Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Family and Medical Leave Act; and the Sarbanes-Oxley Act of 2002;

(e) any and all claims for violation of the federal or any state constitution;

(f) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;

(g) any claim for any loss, cost, damage, or expense arising out of any dispute over the non-withholding or other tax treatment of any of the proceeds received by Executive as a result of this Agreement;

(h) any and all claims arising out of the wage and hour and wage payments laws and regulations of the state or states in which Executive has provided service to the Company or any of its affiliates (including, without limitation, the Retaliatory Employment Discrimination Act (REDA), the North Carolina Persons with Disabilities Protection Act (PDPA), the Equal Employment Practices Act (EEOA), the Sickle Cell and Hemoglobin Trait Discrimination Act, the Genetic Testing and Information Discrimination Act, the Use of Lawful Products Discrimination Act, the AIDS and HIV Status Discrimination Act, the Jury Service Discrimination Act, and the Military Service Discrimination Act); and

(i) any and all claims for attorneys' fees and costs.

Executive agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. This release does not release claims that cannot be released as a matter of law, including, but not limited to, Executive's right to report possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or any other whistleblower protection provisions of state or federal law or

regulation (including Executive's right to receive an award for information provided to any such government agencies), Executive's right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company (with the understanding that Executive's release of claims herein bars Executive from recovering monetary or other individual relief from the Company or any Releasee) in connection with any charge, investigation or proceeding, or any related complaint or lawsuit, filed by Executive or by anyone else on Executive's behalf before the federal Equal Employment Opportunity Commission or a comparable state or local agency), claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law, claims to continued participation in certain of the Company's group benefit plans pursuant to the terms and conditions of COBRA, claims to any benefit entitlements vested as the date of separation of Executive's employment, pursuant to written terms of any employee benefit plan of the Company or its affiliates and Executive's right under applicable law, and any Retained Claims. This release further does not release claims for breach of Sections 3.3.2, 3.4, and 5.1 of the Employment Agreement, which claims shall be considered Retained Claims.

3. Acknowledgment of Waiver of Claims under ADEA. Executive understands and acknowledges that Executive is waiving and releasing any rights Executive may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Executive understands and agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the date Executive signs this Agreement. Executive understands and acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Executive was already entitled. Executive further understands and acknowledges that Executive has been advised by this writing that: (a) Executive should consult with an attorney prior to executing this Agreement; (b) Executive has [21][45] days within which to consider this Agreement, and the Parties expressly agree that such time period to review this Agreement shall not be extended upon any material or immaterial changes to this Agreement; (c) Executive has 7 business days following Executive's execution of this Agreement to revoke this Agreement pursuant to written notice to the General Counsel of the Company; (d) this Agreement shall not be effective until after the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Executive from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Executive signs this Agreement and returns it to the Company in less than the 21 day period identified above, Executive hereby acknowledges that Executive has freely and voluntarily chosen to waive the time period allotted for considering this Agreement.

4. Post-Termination Obligations. Executive reaffirms Executive's continuing obligations under Sections 6, 7 and 9 of the Employment Agreement.

5. Severability. In the event that any provision or any portion of any provision hereof or any surviving agreement made a part hereof becomes or is declared by a court of competent jurisdiction or arbitrator to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without said provision or portion of provision.

6. No Oral Modification. This Agreement may only be amended in a writing signed by Executive and a duly authorized officer of the Company.

7. Governing Law; Dispute Resolution. This Agreement shall be subject to the provisions of Sections 5.2 and 19 of the Employment Agreement.

8. Effective Date. Executive has seven business days after Executive signs this Agreement to revoke it and this Agreement will become effective upon the expiration of such seven business day

period, so long as it has been signed by the Parties and has not been revoked by Executive before that date.

9. Trade Secrets; Whistleblower Protections. In accordance with 18 U.S.C. §1833, notwithstanding anything to the contrary in this Agreement, the Employment Agreement, the Proprietary Information Agreement or any other agreement between Executive and the Company or any of its subsidiaries in effect as of the date Executive receives this Agreement (together, the "Subject Documents"): (a) Executive will not be in breach of the Subject Document, and shall not be held criminally or civilly liable under any federal or state trade secret law (i) for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (ii) for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; and (b) if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney, and may use the trade secret information in the court proceeding, if Executive files any document containing the trade secret under seal, and does not disclose the trade secret, except pursuant to court order. Furthermore, the Parties agree that nothing in the Subject Documents prohibits Executive from reporting possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or any other whistleblower protection provisions of state or federal law or regulation or releases or restrains Executive's right to receive an award for information provided to any such government agencies.

10. Voluntary Execution of Agreement. Executive understands and agrees that Executive executed this Agreement voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Executive's claims against the Company and any of the other Releasees. Executive acknowledges that: (a) Executive has read this Agreement; (b) Executive has not relied upon any representations or statements made by the Company that are not specifically set forth in this Agreement; (c) Executive has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of Executive's own choice or has elected not to retain legal counsel; (d) Executive understands the terms and consequences of this Agreement and of the releases it contains; and (e) Executive is fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Dated:

\_\_\_\_\_  
R. Brandon Asbill

**BANDWIDTH INC.**

Dated:

\_\_\_\_\_  
Name:  
Title:

**List of Subsidiaries of Bandwidth Inc.**

- Bandwidth.com CLEC, LLC (Delaware, United States)
- Broadband, LLC (Delaware, United States)
- IP Spectrum Solutions, LLC (Delaware, United States)
- NL Bandwidth B.V. (Netherlands)
- UK Bandwidth Limited (England and Wales)
- DE Bandwidth GmbH (Germany)
- Bandwidth Iberia S.L (Spain)
- Voice Bidco Limited (England and Wales)
- Voxbone S.A. (Belgium)
- Voxbone US LLC (Delaware, United States)
- Voxbone El Salvador Sociedad Anonima De Capital Variable (El Salvador)
- Voxbone Panama Inc. (Panama)
- Voxbone Telekomunikasyon ve Iletisim Hizmetleri Ticaret Limited Sirketi (Turkey)

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-3 No. 333-249792) of Bandwidth Inc.,
- (2) Registration Statement (Form S-3 No. 333-228939) of Bandwidth Inc., and
- (3) Registration Statement (Form S-8 No. 333-222167) pertaining to the Bandwidth Inc. 2017 Incentive Award Plan, the Bandwidth.com, Inc. 2010 Equity Compensation Plan, and the Bandwidth.com, Inc. 2001 Stock Option Plan;

of our reports dated February 25, 2022, with respect to the consolidated financial statements of Bandwidth Inc. and the effectiveness of internal control over financial reporting of Bandwidth Inc. included in this Annual Report (Form 10-K) of Bandwidth Inc. for the year ended December 31, 2021.

/s/ Ernst & Young LLP

Raleigh, North Carolina  
February 25, 2022



**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF  
THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, David A. Morken, certify that:

1. I have reviewed this Annual Report on Form 10-K of Bandwidth Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 25, 2022

/s/ David A. Morken

David A. Morken

Chief Executive Officer

*(Principal Executive Officer)*

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF  
THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Daryl E. Raiford certify that:

1. I have reviewed this Annual Report on Form 10-K of Bandwidth Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 25, 2022

/s/ Daryl E. Raiford

Daryl E. Raiford

Chief Financial Officer

*(Principal Accounting and Financial Officer)*

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, (the “Exchange Act”) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), David A. Morken, Chief Executive Officer of Bandwidth Inc. (the “Company”), and Daryl E. Raiford, Chief Financial Officer of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company’s Annual Report on Form 10-K for the full year ended December 31, 2021, to which this Certification is attached as Exhibit 32.1 (the “Periodic Report”), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 25, 2022

/s/ David A. Morken

David A. Morken

Chief Executive Officer

*(Principal Executive Officer)*

/s/ Daryl E. Raiford

Daryl E. Raiford

Chief Financial Officer

*(Principal Accounting and Financial Officer)*