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

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**FORM 10-K**

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

For the fiscal year ended **December 31, 2018**

**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)

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**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)

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

**Title of each class**

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

**Name of each exchange on which registered**

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NASDAQ Global Select Market

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

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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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of the Form 10-K or any amendment to the Form 10-K.

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

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

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

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

The aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant as of June 29, 2018, the last business day of the registrant's most recently completed second fiscal quarter, was \$416 million based upon the closing price reported for such date on the NASDAQ Global Select Market.

As of January 31, 2019, 13,287,851 shares of the registrant's Class A common stock and 6,510,731 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 2019 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, 2018.

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**Annual Report on Form 10-K**  
**For the Year Ended December 31, 2018**  
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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 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 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, 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 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 maintain, protect and enhance our intellectual property;
- our expectations regarding litigation and other pending or potential disputes;



- our ability to comply with modified or new laws and regulations; and
- the increased expenses associated with being a public company.

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.

## PART I

### Item 1. Business

#### Overview

We are a leading cloud-based communications platform for enterprises in the United States. Our solutions include a broad range of software Application Programming Interfaces (“APIs”) for voice and text functionality and our owned and managed, purpose-built Internet Protocol (“IP”) voice network, one of the largest in the nation. Our sophisticated and easy-to-use software APIs allow enterprises to enhance their products and services by incorporating advanced voice and text capabilities. Companies use our platform to more frequently and seamlessly connect with their end users, add voice calling capabilities to residential Internet of Things (“IoT”) devices, offer end users new mobile application experiences and improve employee productivity, among other use cases. By owning and operating a capital-efficient, purpose-built IP voice network, we are able to offer advanced monitoring, reporting and analytics, superior customer service, dedicated operating teams, personalized support, and flexible cost structures. For more than a decade, we have pioneered the Communications Platform-as-a-Service (“CPaaS”) space through our innovation-rich culture and focus on empowering enterprises with end-to-end communications solutions.

As technologies evolve and new mobile applications and connected devices proliferate, enterprises must adapt and innovate their communications solutions to create a “connected” experience anywhere, anytime, on any device. Enterprises looking to capitalize on trends such as voice as an interface and Application-to-Person (“A2P”) messaging need solutions that are reliable, secure, scalable and cost-efficient. Most software-powered communications providers rely heavily on leased networks and cannot provide enterprise-grade service and support. We believe traditional large-scale network providers lack the capabilities to build robust software platforms for agile development of communications solutions. Enterprises focus on their core businesses and lack the technical know-how or strategic flexibility to build the customized solutions they require in-house. As a result, enterprises need a third-party, end-to-end, cloud-based software solution that eliminates the complexity and expense of building and maintaining their own communications platform.

Our solutions address enterprises’ communications needs and we believe they are shaping the future of how enterprises connect through embedded voice and text for applications and devices. At the core of our solutions are our communications software APIs, which allow companies to build products and services on top of our cloud-based, out-of-the-box software. Our software APIs include pre-defined functions that are easily customizable for specific use cases without the challenge and expense of building and deploying complex code. Moreover, our platform collects and analyzes terabytes of call and messaging data records in real-time and provide a seamless integration to CRM and Business Intelligence analytics tools to provide meaningful data driven actionable insights for critical business decisions. Customers can then launch and scale applications and solutions with reliability using our own nationwide IP voice network. 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 are the only CPaaS provider in the industry with our own nationwide IP voice network, which we have purpose-built for our platform. Our network is capital-efficient and custom-built to support 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, as well as efficiently meet scalability and cost requirements.

Our customers currently include only enterprises, which includes large enterprises, small and medium-sized

businesses, emerging technology companies and any other business. Our customers operate in a diverse set of industries, including technology, communications, hospitality and services, that need to launch and scale robust communications experiences. Our customers choose Bandwidth because we empower them to embed seamless communications within their products and services in a reliable, flexible, scalable and cost-efficient manner. Our customers include Google Voice, Microsoft Office 365 Skype for Business, Cisco-Webex, Dialpad, RingCentral, GoDaddy, Kipsu, Rover and ZipRecruiter, among many others. We do not currently have any consumer or residential customers, although our enterprise customers may utilize our solutions to serve their own consumer or residential customers or end users.

Our usage-based revenue model allows us to grow with our customers and increase our revenue base as our customers expand their usage of our solutions. Our dollar-based net retention rate, which measures our customers' increased utilization of our platform, was 111%, 107% and 118% for the years ended December 31, 2016, 2017 and 2018, respectively.

We have continued growing our business in recent periods. For the years ended December 31, 2016, 2017 and 2018, our revenue was \$152.1 million, \$163.0 million and \$204.1 million, respectively, and our net income was \$22.4 million, \$6.0 million and \$17.9 million, respectively.

## 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. We generate a majority of our revenue from our CPaaS segment. CPaaS revenue is derived from voice usage, phone number services, 911-enabled phone number services, messaging services and other services. We generate a portion of our CPaaS revenue from usage-based fees which include voice calling and messaging services. The remainder of our revenue is generated by our Other segment. Other revenue is composed of revenue earned from our legacy services and indirect revenue. See Note 9, "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.

## Our Platform

Our Bandwidth Communications Platform empowers enterprises to create and scale voice, messaging and 911 communications services across any application and device. Our software platform and IP voice network enable our enterprise customers to rapidly develop and deploy real-time and mission-critical, software-powered communications solutions. Our sophisticated and easy-to-use software APIs allow enterprises to enhance their products and services by incorporating advanced voice and text capabilities. By owning and operating a capital-efficient, purpose-built IP voice network, we are able to offer advanced monitoring, reporting and analytics, superior customer service, dedicated operating teams, personalized support and flexible cost structures.

Our cloud-based platform is a proprietary CPaaS offering consisting of voice and messaging solutions:

*Voice Software API.* We provide flexible software APIs that are used to build voice calling within applications, innovative call flows between users or machines, call recording, text-to-speech for interactive voice response, call detail records, conference calling or bridging and more. We provide the ability to have customized high-quality call routing for business voice use cases and global reach. Our voice quality monitoring service provides tools and processes for network quality tests and proactive tuning. While we provide a wide range of functionalities, some of the common use cases are:

- **Enabling local and toll-free numbers via software API:** Our platform empowers enterprises with a capability to activate and manage phone numbers instantly and at scale. Using our easy to use software APIs, our enterprise customers can easily add additional lines to their business as well as for their end users.

- **Automating voice communication while preserving privacy:** Our software APIs enable voice communication capabilities from a mobile application to an individual or a group with or without disclosing personal identity.
- **Embedding ‘click-to-call’ communication feature:** We enhance our enterprise customers’ mobile and web marketing capabilities by embedding click-to-call functionality in their customer outreach, including advertising campaigns, that enables them to connect with consumers instantly.
- **Real-time call analytics:** We provide our enterprise customers with real-time call analytics through our dashboard that correlates the raw data from calls with CRM records, including the call duration, customer sentiment and other attributes, in order to provide meaningful contextual sales and other business insights.

**Messaging Software API.** Our software APIs for messaging deliver a complete wireless experience for both P2P and A2P messaging including: delivery receipts, SMS, MMS, long text support, emoji support and bi-directional unicode (international characters) and short codes interoperability. Bandwidth’s messaging services are enabled for both local and toll-free phone numbers. While we provide a wide range of functionalities, some of the common use cases are:

- **Automated real-time notification and alerts:** Our software APIs empower our enterprise customers with predefined functionalities to send and receive text messages to and from an application to an individual or a group. Our customers often build more customized use cases on top of our predefined use cases. For instance, ZipRecruiter uses this functionality to update job seekers of available jobs in real time via automated text alerts.
- **Two-factor authentication:** We enable enterprises to verify the identity and maintain security of end users through our software-based SMS verification service that sends unique codes to end users in order to log in to mobile and web applications.
- **Group messaging:** Enterprises utilize our platform to collaborate with their end users on a real-time basis by enabling group messaging within their user community to share messages, videos, carry out polls and surveys amongst other uses without leaving the application.

**911 Software API.** We are the only software platform that provides complete communications solutions with integrated 911 services. We can instantly connect numbers or applications to emergency services with reliable and accurate emergency routing. Our Dynamic Geospatial Routing uses geocoding to enable real-time routing based on X,Y coordinates of the caller and defined Public Safety Access Point boundaries. Our Advanced “Next Generation 911” “i3”-ready NENA i2 “Enhanced” service network covers approximately 99% of the United States.

## Key Benefits of Our Software Platform

Our Bandwidth Communications Platform provides the following benefits to the enterprises we serve:

- **Easy to Build and Deploy.** Our easy-to-use, intuitive software APIs are ready to launch and scale from day one. We enable enterprises to rapidly and easily scale communications functionalities to a vast range of applications and devices. Our technology requires minimal lines of code to build customized applications, which allows for rapid composition of customized solutions and seamless embedding within other applications.

- *Easy to Scale.* We enable enterprises to easily scale nationwide at launch, without sacrificing quality, while meeting the most stringent requirements. We can deliver full end-to-end automation for even the largest of enterprises using our IP voice network, which is the largest of any CPaaS provider based on the number of rate centers, a measure for the footprint covered by our IP voice network. We are able to support high user volumes without impacting deliverability. Our software, built on our own IP voice network, removes complexity, eliminates performance degradation and increases cost efficiencies at scale.
- *Flexibility.* Our software APIs are easy to deploy and use and allow for the creation of solutions to address a broad array of use cases. Our software can be implemented directly into product workflow for a variety of custom solutions such as creation of virtual call centers, group messaging and dynamic call location routing. We enable developers to easily and rapidly innovate with our platform.

### **Key Benefits of Our Network**

Our owned and managed IP voice network provides the following benefits to the enterprises we serve:

- *Enhanced Quality and Reliability.* We offer greater levels of quality and delivery assurance than providers offering services across the public Internet or through partnerships. As a result, the enterprises we serve have enjoyed 99.9% network uptime in 2018 and we have not experienced any material system failures in the past three years.
- *Total Accountability.* The ability to vertically integrate our software platform with our own IP voice network provides us with a differentiated ability to continuously monitor, report and resolve any software- or network-related issues on a real-time basis. For our enterprise customers, having a single platform solution for their entire communications requirements, including software and network, provides tremendous value with respect to time and financial resources. Our service-level agreements with our enterprise customers assure that we provide high quality service and give them peace of mind and confidence in our service.
- *Lower Total Cost to Our Customers.* The differentiated pairing of our software combined with owning the delivery capability through our IP voice network leads to significant savings for the enterprises we serve as compared to our competitors. Our IP voice network lowers total cost to our customers as compared to our competitors because of our reduced capital expenditure requirements and lower marginal costs at scale, which we are able to pass on to our customers.

### **Our Competitive Strengths**

In our 20 years of business, we have prided ourselves on maintaining a start-up culture and our focus on continuous innovation. We have innovated on our CPaaS offerings to empower our enterprise customers with the most comprehensive software-powered communications platform that integrates seamlessly with one of the largest IP voice networks in the United States that we have built and operate. Our innovation-rich culture, customer-centric solutions and track record of successful execution provide us with the following competitive strengths:

- *Highly Scalable Platform Built for the Enterprise.* We built our Bandwidth Communications Platform from the ground up as an enterprise-grade cloud application. As a result, our deployment is fast, our software APIs are flexible and easy-to-use, and we enable enterprises to launch and scale on day one. Our software APIs allow the enterprise customers we serve to grow with flexibility and seamlessly embed communications in their applications or devices. Our scalable platform allows us to serve large-scale Internet companies and cloud service providers.
- *Broadest, Most Complete Solutions in the Industry.* We provide enterprises the broadest, most complete communications services solutions in the industry through our integrated software and IP voice network. Our large library of voice and text APIs enables our customers to incorporate into their products and services a broad range of capabilities not otherwise attainable.

- *Purpose-Built IP Voice Network.* Our Bandwidth Communications Platform’s IP voice network, which we own and operate nationwide, supports our ability to scale at a reliable and consistent quality for the enterprises we serve. The control and scale we have over our own IP voice network integrated with our Bandwidth Communications Platform provides us distinct competitive advantages that include consistent high quality, in-depth enterprise support, real-time network visibility and economies of scale.
- *Deep Experience and Expertise in Voice and Messaging.* The combination of our versatile software API platform and our IP voice network control allows us to offer not just best efforts, but best-in-class voice and messaging solutions for enterprises. Our senior leadership team has a combined 132 years of industry experience and an average tenure with Bandwidth of 11 years.
- *Growing, Long-Term Relationships with Low Customer Churn.* We deliver comprehensive solutions that address the unique and complex needs of the enterprises we serve. As a result, these enterprises have continued to innovate and grow with our platform over extended timeframes. Our relationship with each of the enterprises we serve often expands across different product suites, divisions and use cases over time. Our customers include large enterprises and small and medium-sized businesses across various industries, and we rarely lose customers that have been on our platform for more than three months. For example, our largest enterprise customer has been on our platform for more than ten years. Based on surveys conducted after customer interactions in 2018, our customers have expressed a 97% satisfaction rate.
- *CPaaS-Based 911 Network Capabilities.* We believe we are the only CPaaS software provider with 911 capabilities. We believe our 911 capabilities provide a significant advantage as compared to software platform providers that are enabling residential voice services through new connected device experiences. Moreover, our dynamic geospatial routing capability routes 911 calls based on a real-time location of the caller to produce industry-leading results.

## **Our Growth Strategy**

- *Expand Existing Enterprise Relationships.* We will continue to expand our relationships with our existing enterprise customers. For example, enterprises often initially purchase only our voice solution and later expand to also purchase our messaging and 911 services. Additionally, we are able to help enterprises scale efficiently and offer their solutions to more of their customers as they grow.
- *Grow Our Enterprise Customer Base.* We believe there is a substantial opportunity to increase our enterprise customer base across a broad range of industries and companies. We plan to continue to grow and invest in our direct sales force and marketing to increase our enterprise customer base.
- *Continue to Innovate Our Platform.* We are committed to building on our track record of leveraging our innovative product capabilities to meet our customers’ needs, just as we have done throughout our history, through dramatic waves of change in communications technology. We were early to deploy software-based networks and to offer hosted cloud-based voice services, while building out one of the fastest growing IP voice networks over the last ten years. Our team has continued to adapt to a dynamic environment to grow our business, and we intend to invest in continued development of our platform and product features to support new use cases and help our enterprise customers succeed as communications technologies evolve.
- *Continue Our Focus on Enterprise Customer Satisfaction.* We intend to continue focusing on delivering world-class services and support to the enterprises we serve to ensure a high level of satisfaction. We believe that satisfied customers provide vital product feedback, purchase additional services, renew contracts at a high rate and provide broad advocacy and new customer referrals for our business.

- *Explore the Development and Growth of Our International Offerings.* Today, our international services are limited to outbound international calling and outbound international messaging. Some of our enterprise customers operate globally or have plans to do so. Accordingly, we are actively exploring international expansion opportunities, including those where we might have a cost or quality advantage in serving our customers.
- *Pursue Acquisitions and Strategic Investments Selectively.* We may selectively pursue acquisitions and strategic investments in businesses and technologies that strengthen our platform.

## **Our Customers**

We have a broad and diversified customer base. We benefit from longstanding relationships with 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 CPaaS revenue for the year ended December 31, 2018.

Our management is highly focused on creating and maintaining strategic partnerships beyond standard transactional customer relationships. We empower enterprises to create, scale and operate voice or text communications services across any mobile application or connected device and this 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 together to identify and establish relationships with prospects, acquire new enterprise customers, expand relationships with existing enterprises and integrate them with our Bandwidth Communications Platform. Our marketing staff generates leads through our website, online marketing campaigns, webinars, sponsored events, white papers, public relations and other outbound lead development efforts. Our marketing staff also targets companies with products that could use our services for the first time or to displace our competitors. Our marketing initiatives enhance awareness and adoption of our services.

We engage potential customers and existing customers through an enterprise sales approach. Our sales executives 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 our Bandwidth Communications Platform to launch and scale robust communications experiences. Our sales team includes sales development, inside sales, field sales and sales engineering personnel.

As of December 31, 2018, we had 150 employees in our sales and marketing organization.

## **Research and Development**

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

As of December 31, 2018, we had 156 employees in our R&D organization.

## **Competition**

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

- platform scalability, reliability and performance;
- network control and quality;
- 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 competes directly with us across all our product offerings.

Our competitors fall into two primary categories:

- CPaaS companies that offer a narrower set of 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, such as AT&T, CenturyLink and Verizon.

Some of our competitors have greater financial, technical and other resources, greater geographic reach, greater name recognition, larger sales and marketing budgets and larger intellectual property portfolios. As a result, certain of our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or enterprise requirements. In addition, some competitors may offer products or services that address one or a limited number of functions at lower prices, with greater depth than our services or geographies where we do not operate. With the introduction of new products and services and new market entrants, we expect competition to intensify in the future. Moreover, as we expand the scope of our platform, we may face additional competition.

## **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, 2018, we had eight U.S. patents and two U.S. patent applications pending. In addition, as of December 31, 2018, we had fifteen registered trademarks.

We seek to protect our intellectual property rights by implementing a policy that requires 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.

Despite our efforts to protect our technology and proprietary rights through intellectual property rights, licenses and other contractual protections, unauthorized parties may still copy or otherwise obtain and use our software and other technology. Any significant impairment of our intellectual property rights could harm our business or our ability to compete. Further, companies in the communications and technology industries may own large numbers of patents, copyrights and trademarks and may frequently threaten litigation, or file suit against us based on allegations of infringement or other violations of intellectual property rights. In the future, we may face allegations that we have infringed the intellectual property rights of third parties, including our competitors and non-practicing entities.

## **Employees**

As of December 31, 2018, we had a total of 611 employees, all of whom are located in the United States. 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 involve 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 in ways that could harm our business. In addition, the application and interpretation of these laws and regulations are often uncertain, particularly in the new and rapidly evolving industry in which we operate. Because laws and regulations have continued to develop and evolve rapidly, it is possible that we may not be, or may not have been, compliant with each such applicable law or regulation.

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

The Federal Communications Commission (“FCC”) has jurisdiction over interstate and international telecommunications services. We have obtained FCC authorization to provide services on a facilities and resale basis, as well as via a wireless telecommunications license.

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. One of the challenges that has arisen is fraud and abuse in the form of illegal robocalling and unwanted text messaging. The FCC has initiated

several proceedings to understand and address fraud and abuse, illegal robocalling and unwanted text messaging. Much of the FCC's efforts to thwart illegal robocalling involve or relate to 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 scope and interpretation of these laws and regulations continue to evolve and develop. 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 the recipient's proper consent, we could face direct liability.

*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 and the Communications Assistance for Law Enforcement Act. In some instances, these regulations indirectly affect us because they directly apply to our customers. 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. 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 November 2011, the FCC released its Universal Service Fund/Intercarrier Compensation Transformation Order (the "USF/ICC Transformation Order"). Along with addressing other matters, the USF/ICC Transformation Order established a prospective intercarrier compensation framework for terminating switched access and VoIP traffic. Under 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. If "local," then VoIP traffic is subject to reciprocal compensation; if "non-local," then it is subject to interstate rates, thus eliminating any intrastate access rate applicable to VoIP. The USF/ICC Transformation Order did not address the treatment of VoIP retroactively. During 2015, the FCC issued clarifications concerning the rating of VoIP traffic that

were favorable to us. Those clarifications were appealed, and in November 2016 the appellate court vacated the FCC's 2015 clarification and ruled that additional action by the FCC is required. At this time, we cannot predict the outcome of the FCC actions.

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

The 1996 Act 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.

### **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

***The success of our growth and expansion plans depends 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:

- the availability and retention of qualified and effective personnel with the expertise required to sell and operate effectively or successfully;
- 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;
- the availability to us of technologies needed to remain competitive; and
- federal and state and regulatory conditions, including the maintenance of state 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.

***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 harmed.***

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 offering, credibility with developers, global reach, ease of integration and programmability, product features, platform scalability, reliability, security and performance, brand awareness and reputation, the strength of sales and marketing efforts, customer support, as well as the cost of deploying and using our services. Our competitors fall into two primary categories:

- CPaaS companies that offer a narrower set of 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 the competitive pressures, our 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. Moreover, as we expand the scope of our services, we may face additional competition. Further, customers and consumers may choose to adopt other forms of electronic communications or alternative communication platforms, including developing necessary networks and platforms in-house.

Furthermore, if our competitors were to merge such that the combined entity would be able to compete fully with our service offering, then our business, results of operations and financial condition may be adversely affected. If one or more of our competitors were to merge or partner with another of our competitors, the change in the competitive landscape could also 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.

We presently operate in the United States and provide certain limited services in Canada. Our IP voice network, which is at the core of our product offerings, is located in the United States. Our current and potential competitors have developed and may develop in the future product solutions that are available internationally as well as domestically. To the extent that customers seek product solutions that include support and scaling internationally, they may choose to use other service providers to fill their communication service needs. Furthermore, while we believe the U.S. market is sufficiently large and expanding to allow us to continue to grow our business, we may face slower growth due to our relative lack of exposure to international markets. 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, our Bandwidth 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 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 and platform 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. Moreover, 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, competing services, platforms and services, decreases in spending by current and prospective customers, weakening economic conditions and 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, text 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 new large enterprise customers; or
- our customers determine 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 Bandwidth 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. 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.***

We currently generate all of our revenue from enterprise customers. 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 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 Bandwidth Communications Platform or



other services or may not achieve the broad market acceptance necessary to generate significant revenue. In certain instances, the introduction of new services requires the successful development of new technology. To the extent that upgrades of existing technology are required for the introduction of new services, the success of these upgrades 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.

***We have experienced rapid growth and expect our growth to continue, and if we fail to effectively manage our growth, then our business, results of operations and financial condition could be adversely affected.***

We have experienced substantial growth in our business since inception, 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 and mature as a public company, we may find it difficult to maintain our corporate culture while managing this growth. 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, in order to successfully manage our rapid growth, our organizational structure has become more complex. In order to manage these increasing complexities, we will need to continue to scale and adapt our operational, financial and management controls, as well as 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.

Finally, continued 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 revenue and profits.***

Our pricing and billing efforts 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 text communications, 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 to 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 heavily 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 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 Bandwidth Communications Platform so that they can manage the services they purchase from us, generally through web-based customer portals; and
- billing for services.

Because our business provides for continued rapid growth in the number of customers that we serve, the volume of services offered, as well as the integration of any acquired companies' business support systems, if any, we must continue to develop our business support systems on a schedule sufficient to meet proposed milestone dates. If we fail to develop effective business support systems or complete the data migration into 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 Bandwidth 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 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. 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 Bandwidth 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 Bandwidth 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 Bandwidth 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. 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 plan to expand our operations internationally, which will expose us to significant risks.***

As part of our growth strategy, we are planning to expand our operations to include international offerings. We expect, in the future, to hire additional employees to provide international support to our existing U.S.-based customers and may, in the future, open foreign offices in order to reach new customers and further support our existing U.S.-based customers. Operating in international markets requires significant resources and management attention and will subject us to regulatory, economic and political risks in addition to those we already face in the United States. We have limited experience with international operations, and our international expansion efforts may not be successful.

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

- exposure to political developments in the United Kingdom (“U.K.”), including the impact of the U.K. referendum on membership in the European Union (“EU”), which has created an uncertain political and economic environment, instability for businesses and volatility in global financial markets;
- difficulties in managing and staffing international operations, including difficulties related to the increased operations, travel, infrastructure 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 provider fees outside of the United States;
- the need to adapt and localize our products for specific countries;
- difficulties in understanding and complying with local laws, regulations and customs in foreign jurisdictions, particularly in the areas of data privacy and personal privacy;
- difficulties 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;
- tariffs and other non-tariff barriers, such as quotas;
- more limited protection for intellectual property rights in some countries;
- adverse tax consequences;
- 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; and
- political or social unrest 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 gross margin may fluctuate as we expand our operations and customer base internationally.

Our failure to manage any of these risks successfully could delay our planned international expansion or, once developed, harm our international operations, and adversely affect our business, results of operations and financial condition.

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

A significant portion of our revenue is concentrated among a limited number of enterprise 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.

***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 Bandwidth Communications Platform, result in significant data losses and the theft of our intellectual property, damage our reputation, 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, dedicated denial of services 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 Bandwidth Communications Platform. Cyber attacks may cause 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. While, to date, we have not been subject to cyber attacks which, individually or in the aggregate, have been material to our operations or financial condition, the preventive actions we take to reduce the risks associated with cyber attacks, including protection of our systems and networks, may be insufficient to repel or mitigate the effects of a major cyber attack in the future. Because the techniques used by such 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 such a security breach which could exacerbate any damage we experience. 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 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 insurance may not cover, or may cover only a portion of, any potential claims related to security breaches to which we are exposed or may not be adequate to indemnify us for all or any portion of liabilities that may be imposed. 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 and a civil investigation 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 Alabama, Georgia, Illinois, Minnesota, North Carolina, Pennsylvania, Rhode Island, South Carolina and the District of Columbia. See the section titled "Item 3. Legal Proceedings." 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 calls and/or text messages in violation of the Telephone Consumer Protection Act.***

Calls and/or text messages originated by our customers may subject us to potential risks. For example, the TCPA restricts telemarketing and the use of technologies that enable automatic calling and/or SMS text messages without proper consent. This may result in civil claims against us and requests for information through third-party subpoenas or regulatory investigations. The scope and interpretation of the laws that are or may be applicable to the making and/or delivery of calls and/or text 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 obtaining proper 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.

***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 FCC or state regulators may not grant us any required regulatory authorization 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 could limit our access to various network services or further increase the rates we must pay for such services. Likewise, proceedings before the FCC could impact the availability and price of special access facilities. Other 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. Additionally, other proceedings before the FCC could 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 1996 Act 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 with all federal, state and local 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 or local 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 to less stringent regulatory oversight than traditional common carriers, the FCC has imposed certain regulatory obligations on providers of VoIP services, including the obligations to contribute to the Universal Service Fund, to provide 911 services and/or to comply with the Communications Assistance for Law Enforcement Act. Some states have imposed taxes, fees and/or surcharges on VoIP telephony services. The imposition of additional regulations could have a material adverse effect on our business.

***We must obtain and maintain permits and licenses to operate our network.***

If we are unable, on acceptable terms and on a timely basis, to obtain and maintain the permits and licenses needed to expand and operate our network, our business could be materially adversely affected. In addition, the cancellation or non-renewal of the permits or licenses that are obtained could materially adversely affect our business. In the event we are the target of an acquisition, the regulatory agencies responsible for granting, renewing or transferring permits and licenses may delay or reject applications to transfer such permits or licenses and as a result these uncertainties, we may not be as attractive an acquisition target.

***Our operations are subject to regulation and require us to obtain and maintain several governmental licenses and permits. If we violate those regulatory requirements or fail to obtain and maintain those licenses and permits, including payment of related fees, if any, we may not be able to conduct our business. Moreover, those regulatory requirements could change in a manner that significantly increases our costs or otherwise adversely affects 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 and authorizations. We also must comply with a variety of regulatory obligations. There can be no assurance we can maintain our licenses or that they will be renewed upon their expiration. Our failure to obtain or maintain necessary licenses, authorizations or to comply with the obligations imposed upon license 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 level and, often, at the state and local levels. Our operations may become subject to additional regulation by other countries if we expand to international markets. Changes to existing regulations or rules, or the failure to regulate going forward in areas historically regulated on matters such as network neutrality, licensing fees, environmental, health and safety, privacy, intercarrier compensation, emergency 911 services interconnection and other areas, in general or particular to our industry, may 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, and if we cannot provide emergency calling functionality through our Bandwidth Communications Platform to meet any new federal or state requirements, or any applicable requirements from other countries, 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.

***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 Bandwidth Communications Platform, decrease our profitability or increase 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. 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. The FCC's order repealing the pre-existing network neutrality rules was appealed by a number of parties. We cannot predict whether the appeal will be successful and result in restoring the pre-existing network neutrality rules that prevent broadband internet access service providers from blocking, impairing and degrading

offerings from third parties like us. If broadband providers were to block, impair or degrade our internet-based services or services we offer through our Bandwidth Communications Platform, or if broadband internet access providers were to charge us or our customers to access and use our internet-based services or services offered through our Bandwidth Communications Platform, we could lose customers, our profitability could decrease, or we may have to raise prices, making our service less competitive in the marketplace. Most of the major broadband internet access providers have publicly stated that they will not block, impair or degrade third party offerings. We cannot predict the potential impact of the January 2018 FCC network neutrality order on our offerings at this time.

***We are subject to privacy and data security obligations in the United States. The FCC, other Federal agencies or state attorneys' general could fine or subject us to other adverse actions that may negatively impact our business reputation. If we are subject to an investigation or suffer a breach, we may incur costs or be subject to forfeitures and penalties that could reduce our profitability.***

For certain of our internet-based and Bandwidth Communications Platform offerings, we are subject to individual or joint jurisdiction of the FCC, the Federal Trade Commission, and state attorneys' general with respect to privacy and data security obligations. If we were to suffer or if one of our customers were to suffer a breach, we may be subject to the jurisdiction of a variety of federal agencies' jurisdictions as well as state attorneys' general. We may have to comply with a variety of data breach laws at the federal and state levels, 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.

***Our business is subject to complex and evolving foreign laws and regulations regarding privacy, data protection and other matters relating to information collection.***

There are numerous foreign laws, regulations and directives regarding privacy and the collection, storage, transmission, use, processing, disclosure and protection of personally identifiable information ("PII") and other personal or customer data, the scope of which is continually evolving and subject to differing interpretations. We must comply with applicable laws, regulations and directives and we may be subject to significant consequences, including penalties and fines, for our failure to comply.

For example, as of May 25, 2018, the General Data Protection Regulation ("GDPR"), has replaced the Data Protection Directive with respect to the processing of PII in the EU. The GDPR imposes several stringent requirements for controllers and processors of PII (including non-EU processors who process personal data on behalf of EU controllers), including, for example, more robust internal accountability controls, a strengthened individual data rights regime, shortened timelines for data breach notifications, limitations on retention and secondary use of information and additional obligations when we contract with third parties in connection with the processing of the PII. Failure to comply with the requirements of GDPR and the applicable national data protection laws of the EU member states may result in fines of up to €20 million or up to 4% of the total worldwide annual revenue for the preceding financial year, whichever is higher, and other administrative penalties. Complying with the GDPR has required us to implement additional mechanisms. As we continue to operate under the GDPR, compliance may become onerous and adversely affect our business, financial condition, results of operations and prospects.

In addition, recent legal developments in Europe have created complexity and compliance uncertainty regarding certain transfers of information from the EU to the United States. For example, the Privacy Shield Framework, to the extent applicable to us, is under review and there is currently litigation challenging other EU mechanisms for adequate data transfers (i.e., the standard contractual clauses). It is uncertain whether the Privacy Shield Framework and/or the standard contractual clauses will be invalidated by European courts or legislatures. We rely, or intend to rely, on a mixture of mechanisms to transfer PII from the EU to the United States, and we could be impacted by changes in law as a result of a future review of these transfer mechanisms by European regulators under the GDPR, as well as current challenges to these mechanisms in European courts. If one or more of the legal



bases for transferring PII from Europe to the United States is invalidated, or if we are unable to transfer PII between and among countries and regions in which we may operate in the future, it could affect the manner in which we provide our services or could adversely affect our financial results.

Furthermore, any failure, or perceived failure, by us to comply with or make effective modifications to our policies, or to comply with any federal, state or international privacy, data-retention or data-protection-related laws, regulations, orders or industry self-regulatory principles could result in proceedings or actions against us by governmental entities or others, a loss of customer confidence, damage to our brand and reputation or a loss of customers, any of which could have an adverse effect on our business. In addition, various federal, state and foreign legislative or regulatory bodies may enact new or additional laws and regulations concerning privacy, data-retention and data-protection issues, including laws or regulations mandating disclosure to domestic or international law enforcement bodies, which could adversely impact our business, our brand or our reputation with customers. For example, some countries have adopted laws mandating that PII 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 PII processing to within individual countries could increase our operating costs significantly.

***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 in the United States 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 “vanity” toll-free 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 Bandwidth 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.

***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 Bandwidth 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 are increasingly being 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 Bandwidth 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 Bandwidth 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 otherwise be 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.

***The storage, processing and use of personal information and related data subjects us to evolving governmental laws and regulation, commercial standards, contractual obligations and other legal obligations related to consumer and data privacy, which may have a material impact on our costs, use of our services, or expose us to increased liability.***

Federal, state, local and foreign laws and regulations, commercial obligations and industry standards, each provide for obligations and restrictions with respect to data privacy and security, as well as the collection, storage, retention, protection, use, processing, transmission, sharing, disclosure and protection of personal information and other customer data, including customer proprietary network information under applicable federal law. The evolving nature of these obligations and restrictions subjects us to the risk of differing interpretations, inconsistency or conflicts among countries or rules, and creates uncertainty regarding their application to our business.

These obligations and restrictions may limit our ability to collect, store, process, use, transmit and share data with our customers, employees and third-party providers and to allow 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 impact our ability to market our services through effective segmentation.

Failure to comply with obligations and restrictions related to applicable data protection laws, regulations, standards, and codes of conduct, as well as our own posted privacy policies and contractual commitments could subject us to lawsuits, fines, criminal penalties, statutory damages, consent decrees, injunctions, adverse publicity, loss of user confidence in our services, and loss of users, which could materially harm our business. Because these obligations and restrictions have continued to develop and evolve rapidly, it is possible that we may not be, or may not have been, compliant with each such obligation and restriction. Additionally, third-party contractors may have access to customer or employee data. If these or other third-party vendors violate obligations and restrictions related to applicable data protection laws or our policies, such violations may also put our customers' or employees' information at risk and could in turn have a material and adverse effect on our business.

***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. While we have eight U.S. patents and two pending U.S. patent applications, we cannot patent much of the technology that is important to our business. In addition, our 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 numerous trademarks and service marks and have applied for registration of our trademarks and service marks in the United States to establish and protect our brand names as part of our intellectual property strategy. We do not currently have any registered trademarks in any jurisdiction outside of the United States. 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 United States 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 are 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.

***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 Bandwidth 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 services are different, in significant respects, from the 911 service 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 Bandwidth 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, disease, accidents, terrorist acts, 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 Bandwidth Communications Platform on which our enterprise users rely for voice, messaging or 911 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 911 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 solutions that we offer are subject to FCC rules governing the delivery of emergency calling services. Similar to other providers of IP telephony services, our 911 service 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 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. 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. 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. Failure to comply with these requirements, or failure of our Bandwidth Communications Platform such that 911 calls did not complete or were misrouted, may result in FCC 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.

The FCC's rules also require that we timely report certain 911 service outages. The FCC may make inquiries regarding matters related to any reported 911 service outage. Any inquiry could result in FCC 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 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, 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 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. Pursuant to the agreement with Level 3, Level 3 is our preferred provider for these services until December 31, 2020, after which the agreement automatically renews for consecutive one-year periods, unless terminated by either Level 3 or us. After December 31, 2020, 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. This uncertainty has included, among other things, extreme volatility in securities prices, drastically 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 this 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 Bandwidth 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 discontinues service with us, whether voluntarily or involuntarily, such as a customer switching to a competitor or going out of business. Changes in the economy, increased competition from other providers, 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 nationwide. 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. 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.

***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 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 Co-Founder, Chief Executive Officer and Chairman, David A. Morken. The replacement of any of our senior management personnel would likely 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. 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 locations where we maintain offices. We must 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 in, or lack of performance of, 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 their vested options have significantly appreciated in value relative to the original purchase prices



of the shares or the exercise prices of the options, or, conversely, if the exercise prices of the options that they hold are significantly above the trading price of our Class A common stock. If we are unable to retain our employees, our business, results of operations and financial condition could be adversely affected.

***Our management team has limited experience managing a public company.***

Most members of our management team have limited, if any, experience managing a publicly-traded company, interacting with public company investors and complying with the increasingly complex laws pertaining to public companies. Our management team may not successfully or efficiently manage us as a public company. As a result of being a public company, we are subject to significant regulatory oversight and reporting obligations under the federal securities laws and the continuous scrutiny of securities analysts and investors. These new obligations and constituents require significant attention from our senior management and could divert their attention away from the day-to-day management of our business, which could adversely affect our business, results of operations and financial condition.

***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. 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. 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 statutes, 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 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 Republic Wireless, Inc. (“Republic Wireless”), 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 Republic Wireless’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 Republic Wireless’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 Republic Wireless (the “Tax Sharing Agreement”), we must generally indemnify Republic Wireless 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 for some period of time following our initial public offering. Notwithstanding the foregoing, it is possible that we, Republic Wireless or the holders of our respective stock might inadvertently cause, permit or otherwise not prevent a change in the ownership of our stock or Republic Wireless’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.***

As a public company, 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 that we will eventually be required to include in our periodic reports that will be filed with the SEC. 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. We are not currently required to comply with the SEC rules that implement Section 404 of the Sarbanes-Oxley Act and are therefore not required to make a formal assessment of the effectiveness of our internal control over financial reporting for that purpose. As a public company, we are required to provide an annual management report on the effectiveness of our internal control over financial reporting commencing with our second Annual Report on Form 10-K.

Our independent registered public accounting firm is not required to attest to the effectiveness of our internal control over financial reporting until after we are no longer an “emerging growth company” as defined in the Jumpstart Our Business Startups Act (the “JOBS” Act). At such time, 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 are an “emerging growth company” and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our Class A common stock less attractive to investors.***

We are an “emerging growth company,” as defined in the JOBS Act, and we take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies,” including not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We may take advantage of these exemptions for so long as we are an “emerging growth company.” We cannot predict if investors will find our Class A common stock less attractive because we rely on these exemptions. If some investors find our Class A common stock less attractive as a result, there may be a less active trading market for our Class A common stock and the trading price of our Class A common stock may be more volatile.

***Earthquakes, hurricanes, fires, floods, power outages, terrorist attacks 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 or a power outage, could have a material adverse effect on our business, results of operations or 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 also could cause disruptions in our business. The adverse impacts of these risks may increase if our disaster recovery plans prove to be inadequate.

***As we have elected to avail ourselves of the JOBS Act extended accounting transition period, our financial statements may not be easily comparable to other companies.***

Pursuant to the JOBS Act, as an “emerging growth company,” we can elect to avail ourselves of the extended transition period for any new or revised accounting standards that may be issued by the Public Company Accounting Oversight Board or the SEC. We have elected to avail ourselves of such extended transition period, which means that when a standard is issued or revised and it has different application dates for public or private companies, we, as an “emerging growth company,” expect to adopt the standard on the timeline for private companies. This may make comparison of our financial statements with other public companies that are not

emerging growth companies or emerging growth companies that have opted out of using the extended transition period difficult or impossible because of the potential differences in accounting standards used.

***Our financial condition and growth may depend upon the successful integration of acquired businesses. We may not be able to efficiently and effectively integrate acquired operations, and thus may not fully realize the anticipated benefits from such acquisitions.***

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;
- loss of customers or the failure of customers to order incremental services that we expect them to order;
- failure to provision services that are ordered by customers during the integration period;
- higher integration costs than anticipated; and
- difficulties in the assimilation and retention of highly qualified, experienced employees, many of whom may be geographically dispersed.

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.

***Our credit facility contains restrictive and financial covenants that may limit our operating flexibility.***

Our credit facility contains certain restrictive covenants that either limit our ability to, or require a mandatory prepayment in the event we, among other things, incur additional indebtedness, issue guarantees, create liens on assets, make certain investments, merge with or acquire other companies, change business locations, pay dividends or make certain other restricted payments, transfer or dispose of assets, enter into transactions with affiliates and enter into various specified transactions. We, therefore, may not be able to engage in any of the foregoing transactions unless we obtain the consent of our lenders or prepay the outstanding amount under our

credit facility. Our credit facility also contains certain financial covenants and financial reporting requirements. Our obligations under our credit facility are secured by all of our property, with certain exceptions. We may not be able to generate sufficient cash flow or sales to meet the financial covenants or pay the principal and interest under our credit facility. Furthermore, future working capital, borrowings or equity financing could be unavailable to repay or refinance the amounts outstanding under our credit facility. In the event of a liquidation, all outstanding principal and interest would have to be repaid prior to distribution of assets to unsecured creditors, and the holders of our Class A and Class B common stock would receive a portion of any liquidation proceeds only if all of our creditors, including our lenders, were first repaid in full.

***If we are unable to comply with the restrictive and financial covenants in our credit facility, there would be a default under the terms of that agreement, and this could result in an acceleration of payment of funds that have been borrowed.***

If we were unable to comply with the restrictive and financial covenants in our credit facility, there would be a default under the terms of that agreement. As a result, any borrowings under other instruments that contain cross-acceleration or cross default provisions may also be accelerated and become due and payable. If any of these events occur, there can be no assurance that we would be able to make necessary payments to the lenders or that we would be able to find alternative financing. Even if we were able to obtain alternative financing, there can be no assurance that it would be on terms that are acceptable.

### **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 January 31, 2019, the trading price of our Class A common stock has ranged from \$18.05 per share to \$57.50 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:

- 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, including the impact of changes in the tax code as a result of federal tax legislation enacted at the end of 2017 and uncertainty as to how some of those changes may be applied;
- 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, including our directors, executive officers and significant stockholders and their respective affiliates who held in the aggregate 83% of the voting power of our capital as of December 31, 2018. This limits or precludes your 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. As of December 31, 2018, our directors, executive officers and holders of more than 5% of our common stock, and their respective affiliates, hold in the aggregate 83% of the voting power of our capital stock. 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 your 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 you may feel are in your 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. Additionally, FTSE Russell, another provider of widely followed stock indices, announced plans in July 2017 to require new constituents of its indices to have at least five percent of their voting rights in the hands of public stockholders. 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 or FTSE Russell 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.

***We may become 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 convert their shares into Class A common stock voluntarily or otherwise, Mr. Morken may control approximately 62% of the combined voting power of our outstanding capital stock. As a result, Mr. Morken may have the ability to 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. If Mr. Morken controls a majority of the voting power of our outstanding capital stock, he would have the ability to control the vote in any election of directors and would have the ability to prevent any transaction that requires shareholder approval regardless of whether other shareholders believe the transaction is in our best interests. 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 shareholder.

***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 your 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. In addition, our credit facility limits our ability to incur additional indebtedness under certain circumstances. 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. In addition, the terms of our credit facility contain restrictions on our ability to declare and pay cash dividends on our capital stock. 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 87,605 square feet of office space at 900 Main Campus Drive and 40,035 square feet of additional office space on the Centennial Campus of North Carolina State University in Raleigh, North Carolina. On January 1, 2019, we entered into an amended lease agreement with landlord for adding approximately 30,114 square feet of additional office space to the lease governing the Centennial Campus of North Carolina State University in Raleigh, North Carolina, which is expected to commence in April 2019. The amended lease agreement also extends the lease term until January 31, 2024.

We also lease approximately 40,657 square feet of space subject to a facilities sharing agreement with Republic Wireless. This operating space expires in 2022.

In addition to our headquarters, we lease space in Denver, CO and Rochester, NY, each of which are used for both our CPaaS and Other segments. We also maintain data centers located in Raleigh, NC (including our network operations center); Los Angeles, CA; Dallas, TX; Atlanta, GA; and New York, NY.

We lease all our facilities and do not own any real property. We may procure additional space in the future as we continue to add employees or expand geographically. We believe our facilities are adequate and suitable for our current needs, and to the extent we require it, we believe additional or alternative space will be readily available in the future to accommodate our operations.

### Item 3. Legal Proceedings

In April 2014, Phone Recovery Services, LLC (“Phone Recovery Services”) filed a complaint against us in the Superior Court of the District of Columbia. The complaint alleges that we failed to bill, collect and remit certain taxes and surcharges associated with the provision of 911 services pursuant to applicable laws of the District of Columbia. In November 2015, the Superior Court of the District of Columbia dismissed Phone Recovery Services’ complaint with prejudice. Phone Recovery Services subsequently appealed. In August 2018, the District of Columbia Court of Appeals affirmed the dismissal. Phone Recovery Services has since filed a motion to amend its complaint, which we have opposed as foreclosed by the appellate court’s decision. We are awaiting a ruling on that motion.

Phone Recovery Services, acting or purporting to act on behalf of applicable jurisdictions, or the applicable county or city itself, has filed similar lawsuits against us and/or one of our subsidiaries in the Superior Court of the State of Rhode Island, the Court of Common Pleas of Allegheny County, Pennsylvania and the District Court of Ramsey County, Minnesota. To date, we have not received any material adverse decision in connection with those matters. The case in Ramsey County, Minnesota was dismissed in November 2016. Upon appeals by Phone Recovery Services, the dismissal was affirmed by the Minnesota Court of Appeals in August 2017, and by the Minnesota Supreme Court in October 2018. The case in Allegheny County, Pennsylvania has been stayed pending the outcome of a related proceeding before the FCC.

We face similar lawsuits brought directly by various state and local governments alleging underpayment of 911 taxes and surcharges, although we understand that Phone Recovery Services may be working in conjunction with each state or local government as a consultant on a contingency basis. The following county or municipal governments have named us in lawsuits associated with the collection and remittance of 911 taxes and surcharges: Birmingham Emergency Communications District, Alabama; Clayton County, Cobb County, DeKalb County, Fulton County, Gwinnett County, Macon-Bibb County, Georgia and Columbus Consolidated Government, Georgia (collectively, the “Georgia Cases”); Cook County and Kane County Illinois; City of Chicago, Illinois; the State of Illinois (collectively, the “Illinois Case”); Beaver County, Berks County, Bucks County, Butler County, Chester County, Clarion County, Cumberland County, Dauphin County, Delaware County, Lancaster County, Lebanon County, Mercer County, Somerset County, Washington County, Westmoreland County, and York County, Pennsylvania (collectively, the “Pennsylvania Cases”); and Richland County, Charleston County, Dorchester County, and Town of Summerville, South Carolina. The complaints allege that we failed to bill, collect and remit certain taxes and surcharges associated with 911 service pursuant to applicable laws. The Georgia Cases have been closed administratively during the appeal of a related case in the Georgia courts; the Georgia Cases may be reopened. We understand that Augusta-Richmond County, Bartow County, Chatham County, Cherokee County, City of Atlanta, City of Savannah, Forsyth County, Houston County and Spalding County, Georgia each intends to initiate legal proceedings against us with allegations substantially similar to those in the Georgia Cases. The Pennsylvania Case in Butler County, Pennsylvania was dismissed in August 2016 and that dismissal is currently on appeal; the remaining Pennsylvania Cases have been stayed until the appeal of the dismissal of the Butler County, Pennsylvania Case is resolved. The Illinois Case was dismissed in December 2016; Phone Recovery Services timely filed a notice of appeal, the Illinois appellate court reversed the December 2016 dismissal, and in January 2019, the Illinois Supreme Court declined to review the Illinois appellate court’s reversal of the December 2016 dismissal of the Illinois Case.

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 August 2016, we received a Civil Investigative Demand from the Consumer Protection Division of the North Carolina Department of Justice, though no formal complaint has been filed in connection with that investigation. The North Carolina Department of Justice is investigating the billing, collection and remission of certain taxes and surcharges associated with 911 service pursuant to applicable laws of the State of North Carolina.

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 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

### 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 January 31, 2019, we had 69 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

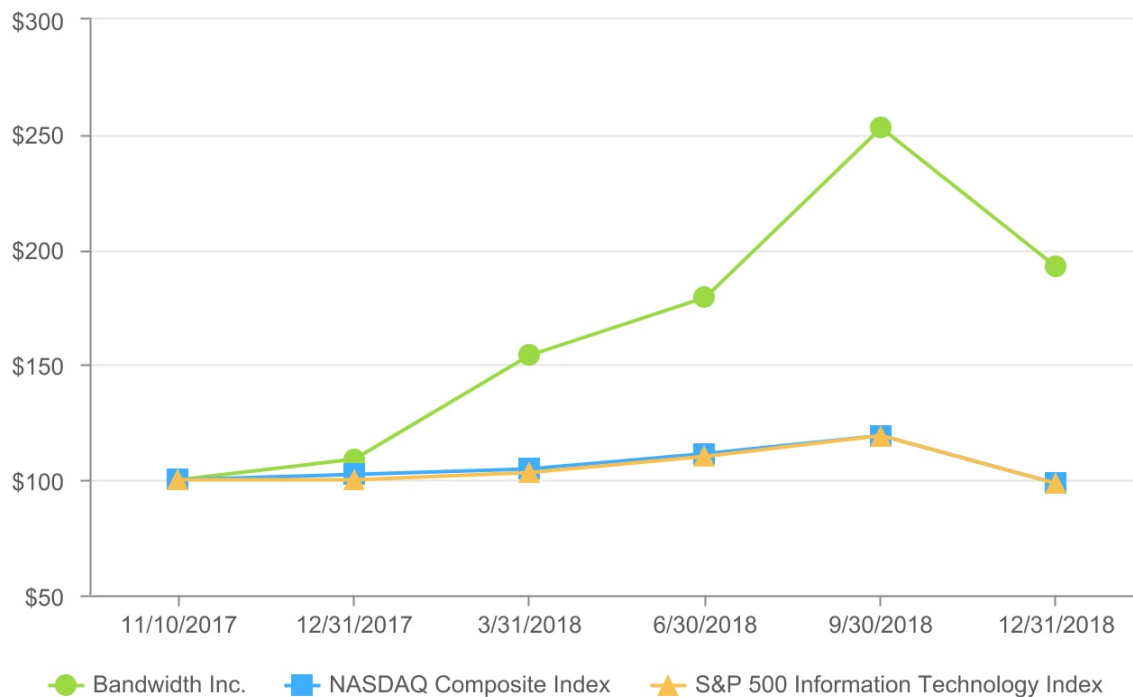
We have never declared or paid any cash dividend on our common stock. We currently intend to retain all of our future earnings, if any, generated by our operations for the development and growth of our business for the foreseeable future. The decision to pay dividends is at the discretion of our board 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, 2018 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, 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 2019 Annual Meeting of Shareholders. The Proxy Statement will be filed with the SEC within 120 days of the fiscal year ended December 31, 2018.

### Recent Sales of Unregistered Securities

From January 1, 2018 through December 31, 2018, we sold the following securities on an unregistered basis:

- On January 16, 2018, we sold 1,252 shares of Class B common stock pursuant to the cash exercise of a warrant at \$6.57 per share resulting in gross proceeds of \$8,228.
- On February 15, 2018, we sold 4,927 shares of Class B common stock pursuant to the cash exercise of a warrant at \$5.80 per share resulting in gross proceeds of \$28,577.
- On February 20, 2018, we sold 3,725 shares of Class B common stock pursuant to the net exercise of a warrant at \$5.80 per share and utilizing a then-current fair market value per share of \$23.91, which net exercise did not result in any gross proceeds.
- On March 2, 2018, we sold 39,000 shares of Class B common stock pursuant to the cash exercise of a warrant at \$0.0004 per share resulting in gross proceeds of \$15.60.

We did not utilize any underwriters for any of the sales of securities on an unregistered basis. We relied on an exemption to the registration requirements of the federal securities laws pursuant to Section 4(2) for each of the sales of securities on an unregistered basis.

## **Use of Proceeds from Public Offering of Common Stock**

In November 2017, we sold 4,000,000 shares of our Class A common stock at a public offering price of \$20.00 per share, including shares sold in connection with the exercise of the underwriters' option to purchase additional shares. The offer and sale of all the shares in our initial public offering were registered under the Securities Act pursuant to a registration statement on Form S-1 (File No. 333-220945), which was declared effective by the SEC on November 9, 2017. We received proceeds of \$74.4 million, after deducting underwriting discounts and commissions of \$5.6 million. In addition, we incurred expenses of approximately \$5.4 million; thus, the net offering proceeds, after deducting underwriting discounts and offering expenses, were approximately \$69.0 million. Upon the initial public offering and in accordance with David Morken's employment agreement, the Chief Executive Officer received a cash bonus of \$750,000. No other payments were made to our directors or officers or their associates, holders of 10% or more of any class of our equity securities or any affiliates, other than payments in the ordinary course of business to officers for salaries. The underwriters of our initial public offering were Morgan Stanley, KeyBank Capital Markets, Baird, Canaccord Genuity and JMP Securities.

There has been no material change in the planned use of proceeds from our initial public offering as described in our final prospectus filed with the SEC on November 13, 2017 pursuant to Rule 424(b) under the Securities Act.



## Item 6. Selected Financial Data

The consolidated statements of operations data for the years ended December 31, 2016, 2017 and 2018 and the consolidated balance sheets as of December 31, 2017 and 2018, are derived from our audited consolidated financial statements included elsewhere in this Annual Report on Form 10-K. The selected consolidated statement of operations data for the year ended December 31, 2015 and the consolidated balance sheet data as of December 31, 2016 are derived from audited consolidated financial statements not included in this Annual Report on Form 10-K. Our historical results are not necessarily indicative of the results that may be expected in the future. The following selected consolidated financial data should be read in conjunction with Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the consolidated financial statements and related notes included in Item 8, “Financial Statements and Supplementary Data,” within this Annual Report on Form 10-K to fully understand factors that may affect the comparability of the information presented below.

Consolidated Statements of Operations Data:	Year ended December 31,			
	2015	2016	2017	2018
	(In thousands, except share and per share amounts)			
Revenue:				
CPaaS revenue	\$ 101,502	\$ 117,078	\$ 131,572	\$ 164,415
Other revenue	36,299	35,057	31,383	39,698
Total revenue	137,801	152,135	162,955	204,113
Cost of revenue:				
CPaaS cost of revenue	64,760	71,218	75,859	94,296
Other cost of revenue	14,482	14,000	13,403	13,849
Total cost of revenue (1)	79,242	85,218	89,262	108,145
Gross profit	58,559	66,917	73,693	95,968
Operating expenses:				
Research and development (1)	7,375	8,520	10,789	20,897
Sales and marketing (1)	8,620	9,294	11,218	20,731
General and administrative (1)	34,602	33,859	37,069	47,588
Total operating expenses	50,597	51,673	59,076	89,216
Operating income	7,962	15,244	14,617	6,752
Other (expense) income:				
Interest (expense) income, net	(589)	(908)	(1,728)	301
Total other (expense) income	(589)	(908)	(1,728)	301
Income from continuing operations before income taxes	7,373	14,336	12,889	7,053
Income tax (provision) benefit (2) (3) (4)	(408)	11,094	(6,918)	10,870
Income from continuing operations	6,965	25,430	5,971	17,923
Loss from discontinued operations, net of income taxes	(13,665)	(3,072)	—	—
Net (loss) income	\$ (6,700)	\$ 22,358	\$ 5,971	\$ 17,923
Other Comprehensive (loss) income				
Unrealized loss on marketable securities, net of income tax benefit	—	—	—	(1)
Total comprehensive (loss) income	\$ (6,700)	\$ 22,358	\$ 5,971	\$ 17,922
Earnings per share:				
Income from continuing operations	\$ 6,965	\$ 25,430	\$ 5,971	\$ 17,923
Less: net income allocated to participating securities	931	3,355	644	—

Income from continuing operations attributable to common stockholders	\$ 6,034	\$ 22,075	\$ 5,327	\$ 17,923
Income from continuing operations per share				
Basic	\$ 0.52	\$ 1.89	\$ 0.42	\$ 0.96
Diluted	\$ 0.48	\$ 1.72	\$ 0.37	\$ 0.85
Net (loss) income	\$ (6,700)	\$ 22,358	\$ 5,971	\$ 17,923
Less: income allocated to participating securities	(896)	2,950	644	—
Net (loss) income attributable to common stockholders	\$ (5,804)	\$ 19,408	\$ 5,327	\$ 17,923
Net (loss) income per share:				
Basic	\$ (0.50)	\$ 1.66	\$ 0.42	\$ 0.96
Diluted	\$ (0.47)	\$ 1.51	\$ 0.37	\$ 0.85
Weighted average number of common shares outstanding:				
Basic	11,497,727	11,678,568	12,590,221	18,573,067
Diluted	12,456,540	12,870,632	14,543,170	21,140,382

(1) Includes stock-based compensation expense as shown below.

(2) Includes \$11,887 of excess tax benefits associated with the exercise of stock options and vesting of restricted stock units in the year ended December 31, 2018.

(3) The Company recognized a tax benefit of \$14,138 due to the release of the deferred tax asset valuation allowance subsequent to the spin-off of Republic Wireless for the year ended December 31, 2016.

(4) On December 22, 2017, the Tax Cuts and Jobs Act (the "Act") was enacted into law. As a result of this change in tax law, the Company recorded a remeasurement of its DTA, which resulted in additional income tax expense of \$2,073.

Stock-based compensation expense:	Year ended December 31,			
	2015	2016	2017	2018
	(In thousands)			
Cost of revenue	\$ 45	\$ 61	\$ 80	\$ 114
Research and development	189	138	155	555
Sales and marketing	239	182	172	511
General and administrative	3,020	989	1,396	2,159
Total	\$ 3,493	\$ 1,370	\$ 1,803	\$ 3,339

Consolidated Balance Sheets Data:	As of December 31,		
	2016	2017	2018
	(In thousands)		
Cash and cash equivalents	\$ 6,788	\$ 37,627	\$ 41,261
Working capital	(2,427)	40,734	58,691
Total assets	69,973	104,494	150,420
Long-term debt and capital lease obligations, net of current portion	37,738	—	—
Series A redeemable convertible preferred stock	21,818	—	—
Total stockholders' (deficit) equity	(22,374)	76,711	108,770

## Non-GAAP Financial Measures

We use Non-GAAP gross profit, Non-GAAP gross margin, Adjusted EBITDA, Non-GAAP net income 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, Adjusted EBITDA, Non-GAAP net income 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 Statement 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; and
- stock-based compensation.

We add back depreciation and amortization, and stock-based compensation, because they are non-cash items. We eliminate the impact of these non-cash items because we do not consider them indicative of our core operating performance. Their exclusion facilitates comparisons of our operating performance on a period-to-period basis. Therefore, we believe showing gross margin, as Non-GAAP to remove the impact of these non-cash expenses, such as depreciation and stock-based compensation, is helpful to investors in assessing our gross profit and gross margin performance in a way that is similar to how management assesses our performance.

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

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 as we do.

### *Consolidated*

	Year ended December 31,		
	2016	2017	2018
	(In thousands)		
<b>Consolidated Gross Profit</b>	\$ 66,917	\$ 73,693	\$ 95,968
Depreciation	4,574	4,315	4,490
Stock-based compensation	61	80	114
<b>Non-GAAP Gross Profit</b>	<b>\$ 71,552</b>	<b>\$ 78,088</b>	<b>\$ 100,572</b>
<b>Non-GAAP Gross Margin %</b>	<b>47 %</b>	<b>48 %</b>	<b>49 %</b>

*By Segment*CPaaS

	Year ended December 31,		
	2016	2017	2018
	(In thousands)		
<b>CPaaS Gross Profit</b>	\$ 45,860	\$ 55,713	\$ 70,119
Depreciation	4,574	4,315	4,490
Stock-based compensation	61	80	114
<b>Non-GAAP Gross Profit</b>	<b>\$ 50,495</b>	<b>\$ 60,108</b>	<b>\$ 74,723</b>
<b>Non-GAAP CPaaS Gross Margin %</b>	<b>43 %</b>	<b>46 %</b>	<b>45 %</b>

Other

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

**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 expense (income), net;
- depreciation and amortization expense;
- stock-based compensation expense;
- impairment of intangible assets, if any;
- loss (gain) on disposal of property and equipment, if any; and
- change in fair value of financial instruments, including any change in shareholders' anti-dilutive arrangements.

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,		
	2016	2017	2018
	(In thousands)		
<b>Income from continuing operations</b>	\$ 25,430	\$ 5,971	\$ 17,923
Income tax (benefit) provision (1)	(11,094)	6,918	(10,870)
Interest expense (income), net	908	1,728	(301)
Depreciation	5,251	4,873	5,270
Amortization	891	839	554
Stock-based compensation	1,370	1,803	3,339
Impairment of intangible asset	695	—	—
Loss on disposal of property and equipment	19	91	191
<b>Adjusted EBITDA</b>	<b>\$ 23,470</b>	<b>\$ 22,223</b>	<b>\$ 16,106</b>

(1) Includes \$11,887 of excess tax benefits associated with the exercise of stock options and vesting of restricted stock units in the year ended December 31, 2018.

### *Non-GAAP Net Income*

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

- stock-based compensation;
- change in fair value of shareholders' anti-dilutive arrangement;
- amortization of acquired intangible assets related to the acquisition of Dash Carrier Services, LLC;
- impairment charges of intangibles assets, if any;
- loss (gain) on disposal of property and equipment;
- estimated tax impact of above adjustments;
- income tax benefit resulting from excess tax benefits associated with the exercise of stock options and vesting of restricted stock units;
- benefit resulting from the release of the valuation allowance on our deferred tax assets ("DTA"); and
- impact on remeasurement of DTA as a result of 2017 tax reform.

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.

We believe Non-GAAP net 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 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.

	Year ended December 31,		
	2016	2017	2018
	(In thousands)		
<b>Net income</b>	\$ 22,358	\$ 5,971	\$ 17,923
Stock-based compensation	1,370	1,803	3,339
Amortization related to acquisitions	520	520	520
Impairment of intangible asset	695	—	—
Loss on disposal of property and equipment	19	91	191
Estimated tax effects of adjustments	(994)	(921)	(1,038)
Release of valuation allowance (1)	(14,138)	—	—
Income tax benefit of option exercises	—	—	(11,887)
Remeasurement of DTA associated with tax rate change (2)	—	2,073	—
<b>Non-GAAP net income</b>	<b>\$ 9,830</b>	<b>\$ 9,537</b>	<b>\$ 9,048</b>
<b>Non-GAAP net income per Non-GAAP share</b>			
Basic	\$ 0.73	\$ 0.68	\$ 0.49
Diluted	\$ 0.67	\$ 0.59	\$ 0.43
<i>Non-GAAP Weighted Average Number of Shares outstanding</i>			
Basic	11,678,568	12,590,221	18,573,067
Series A redeemable convertible preferred stock outstanding	1,775,000	1,522,123	—
<b>Non-GAAP Basic Shares</b>	<b>13,453,568</b>	<b>14,112,344</b>	<b>18,573,067</b>
Diluted	12,870,632	14,543,170	21,140,382
Series A redeemable convertible preferred stock outstanding	1,775,000	1,522,123	—
<b>Non-GAAP Diluted Shares</b>	<b>14,645,632</b>	<b>16,065,293</b>	<b>21,140,382</b>

(1) The Company recognized a tax benefit of \$14,138 due to the release of the deferred tax asset valuation allowance subsequent to the spin-off of Republic Wireless for the year ended December 31, 2016.

(2) On December 22, 2017, the Tax Cuts and Jobs Act (the "Act") was enacted into law. As a result of this change in tax law, the Company recorded a remeasurement of its DTA, which resulted in additional income tax expense of \$2,073.

### 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 that 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 for investing in our business. Free cash flow has certain limitations in that 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 the 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,		
	2016	2017	2018
	(In thousands)		
Net cash provided by operating activities	\$ 16,942	\$ 14,623	\$ 24,633
Net cash used in investing in capital assets (1)	(6,061)	(7,963)	(14,447)
<b>Free cash flow</b>	<b>\$ 10,881</b>	<b>\$ 6,660</b>	<b>\$ 10,186</b>

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

**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 cloud-based communications platform for enterprises in the United States. Our solutions include a broad range of software APIs for voice and text functionality and our owned and managed, purpose-built IP voice network, one of the largest in the nation. Our sophisticated and easy-to-use software APIs allow enterprises to enhance their products and services by incorporating advanced voice and text capabilities. Companies use our platform to more frequently and seamlessly connect with their end users, add voice calling capabilities to residential IoT devices, offer end users new mobile application experiences and improve employee productivity, among other use cases. By owning and operating a capital-efficient, purpose-built IP voice network, we are able to offer advanced monitoring, reporting and analytics, superior customer service, dedicated operating teams, personalized support, and flexible cost structures. Over the last ten years, we have pioneered the CPaaS space through our innovation-rich culture and focus on empowering enterprises with end-to-end communications solutions.

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 are the only CPaaS provider in the industry with our own nationwide IP voice network, which we have purpose-built for our platform. Our network is capital-efficient and custom-built to support 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, as well as efficiently meet scalability and cost requirements.

For the years ended December 31, 2016, 2017 and 2018, total revenue was \$152.1 million, \$163.0 million and \$204.1 million, respectively. CPaaS revenue for the years ended December 31, 2016, 2017 and 2018 was \$117.1 million, \$131.6 million and \$164.4 million, respectively, representing an increase of 12% in 2017 and 25% in 2018. Net income for the years ended December 31, 2016, 2017 and 2018 was \$22.4 million, \$6.0 million and \$17.9 million, respectively. For the years ended December 31, 2016, 2017 and 2018 the number of active CPaaS customer accounts was 798, 965 and 1,230, respectively, representing a year over year increase of 21% in 2017 and 27% in 2018.



**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:

	<b>Year ended December 31,</b>		
	<b>2016</b>	<b>2017</b>	<b>2018</b>
	<b>(Dollars in thousands)</b>		
Number of active CPaaS customers (as of period end)	798	965	1,230
Dollar-based net retention rate	111 %	107 %	118 %
Adjusted EBITDA	\$ 23,470	\$ 22,223	\$ 16,106
Free cash flow	\$ 10,881	\$ 6,660	\$ 10,186

***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 that the use of our platform by active CPaaS customer accounts at or above the \$100 per month threshold is a stronger indicator of potential future engagement than trial usage of our platform 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, 2016, 2017 and 2018, 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. 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 business and extend the use 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 voice usage, phone number services, 911-enabled phone number services, messaging services and other services. We generate a portion of our CPaaS revenue from usage-based fees which include voice calling and messaging services.

For the years ended December 31, 2016, 2017 and 2018, we generated 56%, 58% and 64% of our CPaaS revenue, respectively, from usage-based fees. We also earn monthly fees from services such as phone number services and 911 access service. For the years ended December 31, 2016, 2017 and 2018, we generated 41%, 40% and 34% of our CPaaS revenue, respectively, in each period from monthly per unit fees. The remaining 2-3% of our CPaaS revenue is generated from other miscellaneous services.

The remainder of our revenue is generated by our Other segment. Other revenue is composed of revenue earned from our legacy services and indirect revenue. Other revenue as a percentage of total revenue is expected to continue to decline over time.

We recognize accounts receivable at the time the customer is invoiced. Additionally, we record a receivable and revenue for unbilled revenue if the services have been delivered and are billable in subsequent periods. Unbilled revenue made up 44%, 41% and 47% of outstanding accounts receivable, net of allowance for doubtful accounts as of December 31, 2016, 2017 and 2018, 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, the product mix of revenue, the timing of amortization of capitalized software development costs and the extent to which we periodically choose to pass on any cost savings to our customers in the form of lower usage prices.

## 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*

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 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 associated with our headquarters in Raleigh, North Carolina and our other offices, and depreciation and amortization. We expect that we will incur increased costs associated with supporting the growth of our business and to meet the increased compliance requirements associated with our transition to, and operation as, a public company.

#### *Income Taxes*

For the years ended December 31, 2016, 2017 and 2018, our effective tax rate was (77.4)%, 53.7% and (154.1)%, respectively. The decrease in our effective tax rate is primarily due to the impact of stock compensation tax deductions from stock option exercises, as well as the decrease in the federal statutory tax rate under the Act.

On December 22, 2017, the Act was enacted into law. The income tax effects of changes in tax laws are recognized in the period when enacted. Among its numerous changes to the Internal Revenue Code, the Act reduces U.S. corporate rates from 35% to 21% for periods beginning on or after January 1, 2018.

**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,		
	2016	2017	2018
(In thousands)			
<b>Revenue:</b>			
CPaaS revenue	\$ 117,078	\$ 131,572	\$ 164,415
Other revenue	35,057	31,383	39,698
Total revenue	152,135	162,955	204,113
<b>Cost of revenue:</b>			
CPaaS cost of revenue	71,218	75,859	94,296
Other cost of revenue	14,000	13,403	13,849
Total cost of revenue	85,218	89,262	108,145
<b>Gross profit:</b>			
CPaaS	45,860	55,713	70,119
Other	21,057	17,980	25,849
Total gross profit	66,917	73,693	95,968
<b>Operating expenses:</b>			
Research and development	8,520	10,789	20,897
Sales and marketing	9,294	11,218	20,731
General and administrative	33,859	37,069	47,588
Total operating expenses	51,673	59,076	89,216
Operating income	15,244	14,617	6,752
<b>Other (expense) income:</b>			
Interest (expense) income, net	(908)	(1,728)	301
Income from continuing operations before income taxes	14,336	12,889	7,053
Income tax benefit (provision)	11,094	(6,918)	10,870
Income from continuing operations	25,430	\$ 5,971	\$ 17,923
Loss from discontinued operations, net of income taxes	(3,072)	—	—
Net income	\$ 22,358	\$ 5,971	\$ 17,923

## 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,		
	2016	2017	2018
<b>Revenue:</b>			
CPaaS revenue	77 %	81 %	81 %
Other revenue	23 %	19 %	19 %
Total revenue	100 %	100 %	100 %
<b>Cost of revenue:</b>			
CPaaS cost of revenue	47 %	47 %	46 %
Other cost of revenue	9 %	8 %	7 %
Total cost of revenue	56 %	55 %	53 %
<b>Gross profit:</b>			
CPaaS	30 %	34 %	34 %
Other	14 %	11 %	13 %
Total gross profit	44 %	45 %	47 %
<b>Operating expenses:</b>			
Research and development	6 %	7 %	10 %
Sales and marketing	6 %	7 %	10 %
General and administrative	22 %	23 %	23 %
Total operating expenses	34 %	37 %	43 %
Operating income	10 %	9 %	3 %
<b>Other (expense) income:</b>			
Interest (expense) income, net	(1)%	(1)%	— %
Income from continuing operations before income taxes	9 %	8 %	3 %
Income tax benefit (provision)	7 %	(4)%	5 %
Income from continuing operations	17 %	4 %	9 %
Loss from discontinued operations, net of income taxes	(2)%	— %	— %
Net income	15 %	4 %	9 %

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

## Management's Discussion and Analysis

## Comparison of the Years Ended December 31, 2017 and 2018

*Revenue*

	Year ended December 31,		Change	
	2017	2018		
(Dollars in thousands)				
CPaaS revenue	\$ 131,572	\$ 164,415	\$ 32,843	25 %
Other revenue	31,383	39,698	8,315	26 %
Total revenue	\$ 162,955	\$ 204,113	\$ 41,158	25 %

In 2018, total revenue increased by \$41.2 million, or 25%, compared to the same period in 2017, and CPaaS revenue increased by \$32.8 million, or 25%, compared to the same period in 2017. 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 \$38.2 million of the increase in CPaaS revenue, and our phone number services and 911-enabled phone number services, which accounted for \$6.2 million of the increase in CPaaS revenue. This increase in CPaaS revenue was partially offset by \$11.6 million related to pricing decreases that we have implemented over time with our customers in the form of lower usage prices to increase the reach and scale of our platform. The changes in usage and price in 2018 compared to the same period in 2017 were reflected in our dollar-based net retention rate of 118%. The increase in usage was also attributable to a 27% increase in the number of active CPaaS customer accounts, from 965 as of December 31, 2017 to 1,230 as of December 31, 2018. In addition, revenue from new CPaaS customers contributed \$8.7 million, or 7%, to CPaaS revenue for 2018 compared to \$5.5 million, or 5% to CPaaS revenue in the same period in 2017. As a percentage of total revenue, CPaaS revenue remained flat at 81% from 2018 to the same period in 2017. Other revenue increased by \$8.3 million, or 26%, primarily due to the settlement of a dispute and a higher than usual amount of indirect revenue, which increased by \$11.1 million. This increase was partially offset by the expected declines in our legacy services of \$2.8 million.

*Cost of Revenue and Gross Margin*

	Year ended December 31,		Change	
	2017	2018		
(Dollars in thousands)				
<b>Cost of revenue:</b>				
CPaaS cost of revenue	\$ 75,859	\$ 94,296	\$ 18,437	24 %
Other cost of revenue	13,403	13,849	446	3 %
Total cost of revenue	\$ 89,262	\$ 108,145	\$ 18,883	21 %
Gross profit	\$ 73,693	\$ 95,968	\$ 22,275	30 %
<b>Gross margin:</b>				
CPaaS	42 %	43 %		
Other	57 %	65 %		
Total gross margin	45 %	47 %		

## Management's Discussion and Analysis

In 2018, total gross profit increased by \$22.3 million, or 30%, compared to the same period in 2017. Total gross margin increased from 45% to 47% during the same period. In 2018, CPaaS cost of revenue increased by \$18.4 million, or 24% compared to the same period in 2017. CPaaS cost of revenue increased primarily due to an increase in voice usage costs of \$11.7 million due to growth in minutes used by customers, partially offset by a decrease in the cost per minute from vendors. Network costs also increased \$5.6 million due to network expansions. Cost of messaging increased by \$1.3 million due to growth in messages used by customers and increased cost per message from vendors. Cost of phone numbers increased by \$0.1 million, offset by a \$0.3 million decrease in 911 enabled numbers costs. CPaaS gross margin was 42% and 43% for 2017 and 2018, respectively. Excluding depreciation and stock-based compensation of \$4.4 million in 2017 and \$4.6 million 2018, CPaaS Non-GAAP gross margin was 46% and 45% for 2017 and 2018, respectively, and total Non-GAAP gross margin was 48% and 49% for the same periods.

Other cost of revenue increased by \$0.4 million, which was due to a \$1.6 million increase in cost of indirect revenue related to cost of carrier access revenue, partially offset by a \$1.2 million decrease as a result of churn in legacy services.

### Operating Expenses

	Year ended December 31,		Change	
	2017	2018		
	(Dollars in thousands)			
Research and development	\$ 10,789	\$ 20,897	\$ 10,108	94 %
Sales and marketing	11,218	20,731	9,513	85 %
General and administrative	37,069	47,588	10,519	28 %
Total operating expenses	<u>\$ 59,076</u>	<u>\$ 89,216</u>	<u>\$ 30,140</u>	51 %

In 2018, R&D expenses increased by \$10.1 million, or 94%, compared to the same period in 2017. This increase was primarily due to increased personnel costs of \$8.8 million and other non-headcount costs of \$1.3 million.

In 2018, sales and marketing expenses increased by \$9.5 million, or 85%, compared to the same period in 2017 primarily due to an overall increase in sales personnel costs of \$8.1 million and other non-headcount costs of \$1.4 million.

In 2018, general and administrative expenses increased by \$10.5 million, or 28%, compared to the same period in 2017. This increase was due to higher personnel cost of \$4.5 million, professional expenses of \$2.3 million, hosted software costs of \$1.4 million, facilities expense of \$1.3 million, and other non-headcount costs of \$1.0 million, which contributed to the overall increase in general and administrative expenses.

### Interest (Expense) Income, Net

In 2018, interest income increased by \$2.0 million compared to the same period in 2017, due to the repayment of all outstanding debt in 2017 with the proceeds from our initial public offering and increased interest income from investments in marketable securities.

### Income Tax Benefit (Provision)

In 2018, income tax expense decreased by \$17.8 million compared to the same period in 2017. The effective tax rate for 2018 was (154.1)% compared to 53.7% in the same period in 2017. The decrease in our effective tax rate is primarily due to the impact of tax deductions from stock option exercises, as well as the decrease in the federal statutory tax rate under the Act.

## Management's Discussion and Analysis

In 2017 we incurred additional income tax expense of \$2,073 due to the re-measurement of our deferred tax assets at the lower corporate tax rate. In accordance with SAB118, all accounting related to the Act was completed in Q4 of 2018. There was no change to the provisional re-measurement of our deferrals that was recorded in Q4 of 2017.

### Comparison of the Years Ended December 31, 2016 and 2017

#### Revenue

	Year ended December 31,		Change	
	2016	2017		
	(Dollars in thousands)			
CPaaS revenue	\$ 117,078	\$ 131,572	\$ 14,494	12 %
Other revenue	35,057	31,383	(3,674)	(10)%
Total revenue	<u>\$ 152,135</u>	<u>\$ 162,955</u>	<u>\$ 10,820</u>	7 %

In 2017, total revenue increased by \$10.8 million, or 7%, compared to 2016, and CPaaS revenue increased by \$14.5 million, or 12%. As a percentage of total revenue, CPaaS revenue increased from 77% to 81% from 2016 to 2017. 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 \$21.4 million of the increase in CPaaS revenue, and our phone number services and 911-enabled phone number services, which accounted for \$4.1 million of the increase in CPaaS revenue. This overall increase in CPaaS revenue was partially offset by \$11.1 million related to pricing decreases that we have implemented over time with our customers in the form of lower usage prices to increase the reach and scale of our platform. The changes in usage and price in 2017 were reflected in our dollar-based net retention rate of 107%. The increase in usage was also attributable to a 21% increase in the number of active CPaaS customer accounts, from 798 as of December 31, 2016 to 965 as of December 31, 2017. In addition, revenue from new CPaaS customers contributed \$5.7 million, or 5%, to CPaaS revenue for 2017 compared to \$4.2 million, or 4%, to CPaaS revenue in 2016. Other revenue decreased by \$3.7 million, or 10%, due to expected declines in our legacy services of \$3.1 million and a decrease in indirect revenue of \$0.6 million.

#### Cost of Revenue and Gross Margin

	Year ended December 31,		Change	
	2016	2017		
	(Dollars in thousands)			
<b>Cost of revenue:</b>				
CPaaS cost of revenue	\$ 71,218	\$ 75,859	\$ 4,641	7 %
Other cost of revenue	14,000	13,403	(597)	(4)%
Total cost of revenue	<u>\$ 85,218</u>	<u>\$ 89,262</u>	<u>\$ 4,044</u>	5 %
Gross profit	<u>\$ 66,917</u>	<u>\$ 73,693</u>	<u>\$ 6,776</u>	10 %
<b>Gross margin:</b>				
CPaaS	39 %	42 %		
Other	60 %	57 %		
Total gross margin	44 %	45 %		



**Management's Discussion and Analysis**

In 2017, total gross profit increased by \$6.8 million, or 10%, compared to 2016. Total gross margin increased from 44% to 45% during the same period. In 2017, CPaaS cost of revenue increased by \$4.6 million, or 7%, compared to 2016. CPaaS cost of revenue increased primarily due to an increase in voice usage costs of \$1.9 million due to growth in minutes used by customers, partially offset by a decrease in the cost per minute from vendors. Cost of phone numbers increased by \$0.8 million due to an increase in phone numbers used by customers. Cost of messaging increased by \$0.6 million due to an increase in number of messages used by customers and a slight increase in the cost per message. Additional increases were due to network costs and 911 services which increased \$1.0 million and \$0.2 million, respectively. CPaaS gross margin increased from 39% in 2016 to 42% in 2017. Excluding depreciation and stock-based compensation of \$4.6 million and \$4.4 million for 2016 and 2017, respectively, CPaaS Non-GAAP gross margin was 43% and 46% for 2016 and 2017, respectively, and total Non-GAAP gross margin was 47% and 48% for the same periods.

Other cost of revenue decreased by \$0.6 million, which was due to a \$1.3 million decrease as a result of churn in legacy services, partially offset by a \$0.7 million increase in cost of indirect revenue related to an increase in cost of carrier access revenue and toll-free number registration fees.

**Operating Expenses**

	<b>Year ended December 31,</b>		<b>Change</b>	
	<b>2016</b>	<b>2017</b>		
	<b>(Dollars in thousands)</b>			
Research and development	\$ 8,520	\$ 10,789	\$ 2,269	27 %
Sales and marketing	9,294	11,218	1,924	21 %
General and administrative	33,859	37,069	3,210	9 %
Total operating expenses	<u>\$ 51,673</u>	<u>\$ 59,076</u>	<u>\$ 7,403</u>	14 %

In 2017, R&D expenses increased by \$2.3 million, or 27%, compared to 2016. This increase was primarily due to increased personnel costs of \$2.2 million and professional fees of \$0.1 million.

In 2017, sales and marketing expenses increased by \$1.9 million, or 21%, compared to 2016 primarily due to an overall increase in sales personnel costs of \$1.9 million.

In 2017, general and administrative expenses increased by \$3.2 million, or 9%, compared to 2016. This increase was due to increases of \$1.2 million in facilities expenses, \$1.0 million for hosted software costs, \$0.4 million for professional expenses, partially offset by a \$0.9 million decrease in depreciation and amortization expenses. An increase in personnel cost of \$1.5 million also contributed to the overall general and administrative expenses.

**Interest (Expense) Income, Net**

In 2017, interest expense increased by \$0.8 million compared to 2016, due to an increased balance outstanding of our credit facility that we entered into in November 2016. The balance of the credit facility was paid off in full in November 2017 with proceeds from our initial public offering.

**Income Tax Benefit (Provision)**

In 2017, income tax expense increased by \$18.0 million compared to 2016. The effective tax rate for 2017 was 53.7% compared to (77.4)% in 2016. During 2016, we had a full valuation against our DTA. The valuation allowance was released in December 2016 subsequent to the Spin-Off.

**Loss from Discontinued Operations, Net of Income Tax**

## Management's Discussion and Analysis

In 2017, loss from discontinued operations decreased by \$3.1 million compared to 2016. The Spin-Off of Republic took place on November 30, 2016.

## Management's Discussion and Analysis

### Quarterly Results of Operations

The following tables set forth our unaudited quarterly statements of operations data for each of the eight quarters ended December 31, 2018. The information for each quarter has been prepared on a basis consistent with our audited consolidated financial statements included in this Annual Report on Form 10-K, and reflect, in the opinion of management, all adjustments of a normal, recurring nature that are necessary for a fair presentation of the financial information contained in those statements. Our historical results are not necessarily indicative of the results that may be expected in the future. The following quarterly financial data should be read in conjunction with our audited consolidated financial statements included in this Annual Report on Form 10-K.

	Three Months Ended							
	March 31, 2017	June 30, 2017	September 30, 2017	December 31, 2017	March 31, 2018	June 30, 2018	September 30, 2018	December 31, 2018
(Unaudited, in thousands)								
<b>Revenue:</b>								
CPaaS revenue	\$ 31,647	\$ 31,547	\$ 33,397	\$ 34,981	\$ 38,897	\$ 39,833	\$ 41,537	\$ 44,148
Other revenue	7,978	7,979	7,941	7,485	14,115	8,471	8,917	8,195
Total revenue	39,625	39,526	41,338	42,466	53,012	48,304	50,454	52,343
<b>Cost of revenue:</b>								
CPaaS cost of revenue	18,228	18,919	19,247	19,465	21,905	23,137	23,996	25,258
Other cost of revenue	3,338	3,375	3,324	3,366	3,459	3,429	3,478	3,483
Total cost of revenue	21,566	22,294	22,571	22,831	25,364	26,566	27,474	28,741
<b>Gross profit:</b>	18,059	17,232	18,767	19,635	27,648	21,738	22,980	23,602
<b>Operating expenses:</b>								
Research and development	2,682	2,409	2,771	2,927	3,781	4,435	5,895	6,786
Sales and marketing	2,558	2,413	3,128	3,119	4,522	4,654	5,422	6,133
General and administrative	7,637	8,257	9,797	11,378	10,569	11,490	11,576	13,953
Total operating expenses	12,877	13,079	15,696	17,424	18,872	20,579	22,893	26,872
Operating income (loss)	5,182	4,153	3,071	2,211	8,776	1,159	87	(3,270)
<b>Other (expense) income:</b>								
Interest (expense) income, net	(421)	(438)	(402)	(467)	49	90	103	59
Change in fair value of stockholders' anti-dilutive arrangement	—	(553)	(136)	689	—	—	—	—
Total other (expense) income	(421)	(991)	(538)	222	49	90	103	59
Income from continuing operations before income taxes	4,761	3,162	2,533	2,433	8,825	1,249	190	(3,211)
Income tax (provision) benefit	(1,772)	(1,215)	(899)	(3,032)	(2,634)	9,263	2,320	1,921
Income (loss) from continuing operations	2,989	1,947	1,634	(599)	6,191	10,512	2,510	(1,290)
Net income (loss)	\$ 2,989	\$ 1,947	\$ 1,634	\$ (599)	\$ 6,191	\$ 10,512	\$ 2,510	\$ (1,290)
Unrealized loss on marketable securities, net of income tax benefit	—	—	—	—	(6)	4	(1)	2
Total comprehensive income (loss), net of income tax	\$ 2,989	\$ 1,947	\$ 1,634	\$ (599)	\$ 6,185	\$ 10,516	\$ 2,509	\$ (1,288)
<b>Net income (loss) per share:</b>								
Basic	\$ 0.22	\$ 0.14	\$ 0.12	\$ (0.04)	\$ 0.35	\$ 0.58	\$ 0.13	\$ (0.07)
Diluted	\$ 0.20	\$ 0.13	\$ 0.11	\$ (0.04)	\$ 0.30	\$ 0.50	\$ 0.12	\$ (0.07)

**Management's Discussion and Analysis****Liquidity and Capital Resources**

To date, our principal sources of liquidity have been the proceeds of \$74.4 million, net of underwriting discounts and commissions, from our initial public offering in November 2017, in addition to free cash flow driven by payments received from customers using our services. We believe that our cash and cash equivalents balances, our marketable securities portfolio, our credit facility 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.

**Statement of Cash Flows**

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

	Year ended December 31,		
	2016	2017	2018
	(In thousands)		
Net cash provided by operating activities	\$ 16,942	\$ 14,623	\$ 24,633
Net cash used in investing activities	(6,061)	(7,963)	(31,683)
Net cash (used in) provided by financing activities	(1,532)	24,182	10,681
Net increase in cash, cash equivalents, and restricted cash	<u>\$ 9,349</u>	<u>\$ 30,842</u>	<u>\$ 3,631</u>

**Cash Flows from Operating Activities**

In 2018, cash provided by operating activities was \$24.6 million, consisting of net income of \$17.9 million adjusted for non-cash items. These non-cash items included depreciation and amortization expense of \$5.8 million, stock-based compensation expenses of \$3.3 million, deferred tax benefit of \$10.8 million and cash provided by changes in operating assets and liabilities of \$8.3 million. Cash generated from operating assets and liabilities included an increase in deferred revenue of \$6.0 million, an increase in accrued expenses and other liabilities of \$4.8 million, increase in deferred rent of \$2.1 million and a decrease in deferred costs of \$0.2 million. Offsetting these cash generating items in assets and liabilities were an increase in accounts receivable of \$2.8 million, an increase in prepaid expenses and other assets of \$1.9 million and a decrease in accounts payable of \$0.2 million, respectively.

In 2017, cash provided by operating activities was \$14.6 million, consisting of net income of \$6.0 million adjusted for non-cash items. These non-cash items included depreciation and amortization expense of \$5.7 million, deferred tax expense of \$6.2 million, stock-based compensation expenses of \$1.8 million and cash used for changes in operating assets and liabilities of \$5.7 million. Cash outflows from operating assets and liabilities included increases in accounts receivable of \$4.4 million, prepaid expenses and other assets of \$1.6 million, deferred costs of \$0.9 million along with a decrease in accounts payable of \$2.4 million. Offsetting these cash outflows was an increase in deferred revenue, increase in deferred rent of \$0.2 million and advanced billings of \$2.6 million and an increase in accrued expenses and other liabilities of \$1.0 million.

In 2016, cash provided by operating activities from continuing operations was \$16.9 million, which primarily consisted of net income from continuing operations of \$22.4 million that includes \$3.1 million net loss by discontinued operations, depreciation and amortization of \$6.1 million, amortization of debt issuance costs of \$0.1

## Management's Discussion and Analysis

million, \$1.4 million of stock-based compensation expenses and impairment of intangible assets of \$0.7 million partially offset by a decrease in deferred taxes of \$11.1 million and working capital of \$5.7 million. Working capital consisted primarily of increases in accounts receivable of \$4.0 million, prepaid expenses of \$0.8 million, deferred costs of \$1.0 million and accrued expenses of \$0.6 million, offset by increases in accounts payable of \$0.2 million and deferred revenue of \$0.5 million.

### *Cash Flows from Investing Activities*

In 2018, cash used in investing activities from continuing operations was \$31.7 million from the investment in marketable securities of \$35.2 million, the purchase of property and equipment of \$12.4 million and capitalized internally developed software costs of \$2.0 million, partially offset by maturities of marketable securities of \$18.0 million.

In 2017, cash used in investing activities from continuing operations was \$8.0 million from the purchase of property and equipment of \$5.0 million and capitalized internally developed software costs of \$2.9 million.

In 2016, cash used in investing activities from continuing operations was \$6.1 million, of which \$3.8 million was used to purchase property, plant and equipment and \$2.2 million for capitalized internally developed software costs.

### *Cash Flows from Financing Activities*

In 2018, cash provided by financing activities from continuing operations was \$10.7 million consisting primarily of \$11.1 million in proceeds from the exercises of stock options, partially offset by \$0.3 million in payments related to the cost of our initial public offering and \$0.1 million in payments on capital leases.

In 2017, cash provided by financing activities from continuing operations was \$24.2 million consisting primarily of \$74.4 million in net proceeds from our initial public offering, \$0.2 million in proceeds from the issuances of common stock as a result of options exercised, and \$0.1 million in proceeds from exercise of warrants, partially offset by net repayments of \$9.0 million on our line of credit, \$0.1 million in payments on capital leases, and \$40.0 million in repayments on our term loan.

In 2016, cash used in financing activities from continuing operations was \$1.1 million consisting primarily of \$30.0 million in cash distributions to Republic Wireless, \$0.6 million in payments of debt issuance costs, net repayments of \$12.0 million on our line of credit, \$0.1 million in payments on capital leases, offset by \$40.0 million of borrowing on our term loan, \$1.0 million in proceeds from the issuances of common stock as a result of options exercised, and \$0.2 million in proceeds from exercise of warrants.

### *Debt*

On November 4, 2016, we entered into a Credit and Security Agreement with a syndicate of four banks. The agreement includes a \$40.0 million term loan and a \$25.0 million revolving loan, which includes a swing line of up to \$1.0 million and limits letters of credit commitments to a maximum of \$2.5 million. Substantially all of our assets are pledged as security to the Credit and Security Agreement. The term of the Credit and Security Agreement is five years and matures on November 3, 2021. The interest rate used for the debt is based on our election to either apply the Federal Funds Effective Rate or LIBOR plus a stated margin, as defined in the Credit and Security Agreement. This agreement requires us to meet a certain leverage ratio and minimum debt service coverage ratio each quarter on a trailing 12-month basis.

As of December 31, 2018, we had \$0 outstanding on the revolving loan and were in compliance with all financial and non-financial covenants for all periods presented. The available borrowing capacity under our revolving credit facility loan was \$25.0 million as of December 31, 2018.

**Management's Discussion and Analysis**

As of December 31, 2018, the outstanding unamortized loan fees for the revolving loan were \$0.1 million and were included in other long-term assets.

**Contractual Obligations and Other Commitments**

The following table summarizes our non-cancellable contractual obligations as of December 31, 2018:

	<b>Total</b>	<b>Less than 1 year</b>	<b>1 to 3 Years</b>	<b>3 to 5 Years</b>	<b>More than 5 years</b>
<b>(In thousands)</b>					
Operating leases (1)	\$ 22,658	\$ 5,044	\$ 10,434	\$ 6,232	\$ 948
Capital leases	—	—	—	—	—
Purchase obligations (2)	7,182	5,270	1,727	185	—
Total	<u>\$ 29,840</u>	<u>\$ 10,314</u>	<u>\$ 12,161</u>	<u>\$ 6,417</u>	<u>\$ 948</u>

(1) Operating leases represent total future minimum rent payments under non-cancellable operating lease agreements.

(2) Purchase obligations represent total future minimum payments under contracts to various service providers, and exclude agreements that are cancellable without penalty.

**Off-Balance Sheet Arrangements**

We have not entered into any off-balance sheet arrangements and do not have any holdings in variable interest entities.

**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 communication services to enterprise customers. We recognize revenue when all of the following criteria are met (i) persuasive evidence of an arrangement exists; (ii) delivery has occurred; (iii) the fee is fixed or determinable; and (iv) collection is reasonably assured. If collection is not reasonably assured, we defer revenue recognition until collectability becomes reasonably assured. Our arrangements do not contain general rights of return. We generally enter into arrangements with customers that are typically 2 to 3 years in length. Incremental direct costs incurred related to the acquisition of a customer contract are expensed as incurred.

### ***Stock-Based Compensation***

Stock options awarded to employees, directors and non-employee third parties are measured at fair value on each grant date. Options subject to service-based vesting generally vest annually over a four-year period. The determination of the fair value of stock-based compensation arrangements on the grant date requires judgment. We recognize stock-based compensation expense using the Black-Scholes option-pricing model, net of estimated forfeitures, in order to determine the fair value of stock options, the output of which is affected by a number of variables. These variables include the fair value of our common stock, expected term of the options, expected stock price volatility, risk-free interest rate and expected dividends, which are estimated as follows:

- *Fair value of our common stock.* The fair value of the shares of our common stock underlying stock options had historically been determined by our board of directors with the assistance of an independent third-party valuation firm. Because there had been no public market for our common stock, our board of directors had relied on this independent valuation and other factors to establish the fair value of our common stock at the time of grant of the option. The determination of the fair value of our common stock is discussed further below.
- *Expected term.* The expected term was estimated using the simplified method allowed under SEC guidance as we do not have sufficient historical data to use any other method to estimate the expected term.
- *Expected volatility.* The expected volatility is derived from an average of the historical volatilities of the common stock of several entities with characteristics similar to ours, such as the size, and operational and economic similarities to our principle business operations. We use this method because we have limited information on the volatility of our common stock.
- *Risk-free interest rate.* The risk-free interest rate is based on the yields of U.S. Treasury securities with maturities similar to the expected term of the options for each option group.
- *Expected dividends.* The expected dividend is assumed to be zero as we have never paid dividends and have no current plans to pay any dividends on our common stock.

In addition to the assumptions used in the Black-Scholes option-pricing model, we must also determine a forfeiture rate to calculate the stock-based compensation for awards. Through December 31, 2018, we recognized compensation for only the portion of options expected to vest using an estimated forfeiture rate that was derived from historical employee termination behavior.

#### *Determination of the Fair Value of Common Stock*

Prior to our initial public offering, we had periodically determined for financial reporting purposes the estimated per share fair value of our common stock at various dates using contemporaneous valuations performed in accordance with the guidance outlined in the American Institute of Certified Public Accountants Practice Aid, "Valuation of Privately-Held Company Equity Securities Issued as Compensation." In conducting the contemporaneous valuations, we considered all objective and subjective factors that we believed to be relevant for each valuation conducted, including the following:

- contemporaneous unrelated third-party valuations of our common stock;
- the rights, preferences and privileges of our redeemable convertible preferred stock relative to those of our common stock;
- our results of operations, financial position and capital resources;

## Management's Discussion and Analysis

- current business conditions and projections;
- the lack of marketability of our common stock;
- the hiring of key personnel and the experience of our management;
- the introduction of new products;
- the risk inherent in the development and expansion of our products;
- the fact that the option grants involve illiquid securities in a private company;
- the likelihood of achieving a liquidity event, such as an initial public offering or a sale of our company, given the prevailing market conditions;
- industry trends and competitive environment; and
- overall economic indicators, including gross domestic product, employment, inflation and interest rates.

In valuing our common stock, we had historically determined the equity value of our Company using both the income and the market approach valuation methods:

- The income approach estimates value based on the expectation of future cash flows that a company will generate. These future cash flows are discounted to their present values using a discount rate derived from an analysis of the cost of capital of comparable publicly traded companies in our industry as of each valuation date and is adjusted to reflect the risks inherent in our cash flows.
- The market approach estimates value based on a comparison of the subject company to comparable public companies in a similar line of business. From the comparable companies, a representative market value multiple is determined and then applied to the subject. The estimated value for our common stock is then discounted by a non-marketability factor (discount for lack of marketability) due to the fact that stockholders of private companies do not have access to trading markets similar to those enjoyed by stockholders of public companies, which affects liquidity.

As a result of the determination to pursue strategic financing through an initial public offering, in June 2017, we began using the Probability-Weighted Expected Return Method ("PWERM") in order to estimate the value of our common stock based on various outcomes. Using the PWERM, the value of our common stock was estimated based upon a probability-weighted analysis of varying values for our common stock assuming possible future events for the company, including an initial public offering and a stay private company scenario in which operations continued as a privately held company. Application of this approach involved the use of estimates, judgment and assumptions that are highly complex and subjective, such as those regarding our expected future revenue, expenses and future cash flows, discount rates, market multiples, the selection of comparable companies and the probability of possible future events. Changes in any or all of these estimates and assumptions or the relationships between those assumptions impact our valuations as of each valuation date and may have a material impact on the valuation of our common stock.

The dates of our contemporaneous valuations have not always coincided with the dates of our stock-based compensation grants. In such instances, management's estimates have been based on the most recent contemporaneous valuation of our shares of common stock and our assessment of additional objective and subjective factors we believed were relevant as of the grant date. The additional factors considered when determining any changes in fair value between the most recent contemporaneous valuation and the grant dates



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included our stage of development, our operating and financial performance, current business conditions and the market performance of comparable publicly traded companies.

Following our initial public offering, it was no longer necessary to determine the fair value of our Class A common stock using these valuation techniques as shares of our Class A common stock are traded on the the NASDAQ Global Select Market.

### ***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, 2016, 2017 and 2018 and no impairment charges were recorded. As of December 31, 2018 goodwill was \$6.9 million.

#### *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, 2018, intangible assets, net of accumulated amortization, were \$7.1 million, which consists primarily of client relationships and client contracts. As part of our annual evaluation of intangibles during the year ended December 31, 2016, we re-evaluated our marketing and trade name assets and concluded that there was no further benefit to a trade name acquired in the Dash acquisition. As a result, we impaired the intangible asset and recognized a loss of \$0.7 million in 2016. No indicators of impairment were identified for the years ended December 31, 2017 and 2018.

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

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.

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

## Management's Discussion and Analysis

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*

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 required to determine 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. In many of these jurisdictions, non-income-based taxes and fees, such as sales and use taxes, 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 2.8 million, \$3.0 and \$4.7 million as of December 31, 2016, 2017 and 2018, respectively. 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.

## JOBS Act Accounting Election

We are an "emerging growth company," as defined in the JOBS Act.

Section 107 of the JOBS Act provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to use the extended transition period for complying with new or revised accounting standards under Section 102(b)(1) of the JOBS Act. This election allows us to delay the adoption of new or revised accounting standards that have different effective dates for public and private companies until those standards apply to private companies. As a result of this election, our financial statements may not be comparable to companies that comply with public company effective dates.

We also intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies," including not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We may take advantage of these exemptions for so long as we are an "emerging growth company."

We will remain an emerging growth company until the earlier of (1) December 31, 2022 (the last day of the fiscal year following the fifth anniversary of our initial public offering), (2) the last day of the fiscal year in which we have total annual gross revenue of at least \$1.07 billion, (3) the last day of the fiscal year in which we are deemed to be a "large accelerated filer," as defined in the Exchange Act, and (4) the date on which we have issued more than \$1.0 billion in nonconvertible debt during the prior three-year period. Any reference herein to "emerging growth company" has the meaning ascribed to it in the JOBS Act.

## 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, inflation.

### *Interest Rate Risk*

Our primary exposure to market risk relates to interest rate changes. We had cash and cash equivalents of \$41.3 million and marketable securities of \$17.4 million as of December 31, 2018, which were held for working capital purposes. Our cash and cash equivalents are comprised primarily of interest bearing checking accounts and money market accounts. Marketable securities consist of U.S. treasury securities not otherwise classified as cash equivalents.

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.

Our debt is comprised of a revolving line of credit account, which had no amount outstanding as of December 31, 2018. The revolving line of credit has an interest rate based on the 1-month LIBOR rate plus 225 basis points as of December 31, 2018. A one-eighth percentage point increase or decrease in the applicable rate for our credit facility (assuming the revolving portion of the credit facility is fully drawn) would have an annual impact of less than \$0.1 million on cash interest expense.

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

Our customers consume our services primarily in the United States. Our revenue and expenses are denominated in U.S. dollars and as a result we have no foreign currency risk.

#### ***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.**

**Index to Consolidated Financial Statements**

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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, 2018 and 2017, the related consolidated statements of operations and comprehensive income, changes in redeemable convertible preferred stock and stockholders' (deficit) equity and cash flows for each of the three years in the period ended December 31, 2018, 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, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018, in conformity with U.S. generally accepted accounting principles.

**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 Public Company Accounting Oversight Board (United States) (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. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

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.

/s/ Ernst & Young LLP

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

Raleigh, North Carolina  
February 15, 2019

**Bandwidth Inc.****Consolidated Balance Sheets**  
(In thousands, except share and per share amounts)

	<b>As of December 31,</b>	
	<b>2017</b>	<b>2018</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 37,627	\$ 41,261
Marketable securities	—	17,400
Accounts receivable, net of allowance for doubtful accounts	21,225	24,009
Prepaid expenses and other current assets	3,767	6,114
Deferred costs	2,633	2,630
Total current assets	65,252	91,414
Property and equipment, net	14,946	25,136
Intangible assets, net	7,643	7,089
Deferred costs, non-current	2,068	1,828
Other long-term assets	1,192	727
Goodwill	6,867	6,867
Deferred tax asset	6,526	17,359
Total assets	\$ 104,494	\$ 150,420
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 3,025	\$ 3,418
Accrued expenses and other current liabilities	15,725	21,393
Current portion of deferred revenue and advanced billings	5,768	7,912
Total current liabilities	24,518	32,723
Deferred rent, net of current portion	716	2,503
Deferred revenue, net of current portion	2,549	6,424
Total liabilities	27,783	41,650
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, 2017 and 2018; 4,197,831 and 12,912,747 shares issued and outstanding as of December 31, 2017 and 2018, respectively	4	13
Class B voting common stock, \$0.001 par value; 20,000,000 shares authorized as of December 31, 2017 and 2018; 13,440,725 and 6,510,732 shares issued and outstanding as of December 31, 2017 and 2018, respectively	13	6
Additional paid-in capital	102,465	116,600
Accumulated deficit	(25,771)	(7,848)
Accumulated other comprehensive loss	—	(1)
Total stockholders' equity	76,711	108,770
Total liabilities and stockholders' equity	\$ 104,494	\$ 150,420

See accompanying notes.

## Bandwidth Inc.

**Consolidated Statements of Operations and Comprehensive Income**  
(In thousands, except share and per share amounts)

	Year ended December 31,		
	2016	2017	2018
Revenue:			
CPaaS revenue	\$ 117,078	\$ 131,572	\$ 164,415
Other revenue	35,057	31,383	39,698
Total revenue	152,135	162,955	204,113
Cost of revenue:			
CPaaS cost of revenue	71,218	75,859	94,296
Other cost of revenue	14,000	13,403	13,849
Total cost of revenue	85,218	89,262	108,145
Gross profit	66,917	73,693	95,968
Operating expenses:			
Research and development	8,520	10,789	20,897
Sales and marketing	9,294	11,218	20,731
General and administrative	33,859	37,069	47,588
Total operating expenses	51,673	59,076	89,216
Operating income	15,244	14,617	6,752
Other (expense) income:			
Interest (expense) income, net	(908)	(1,728)	301
Total other (expense) income	(908)	(1,728)	301
Income from continuing operations before income taxes	14,336	12,889	7,053
Income tax benefit (provision)	11,094	(6,918)	10,870
Income from continuing operations	25,430	5,971	17,923
Loss from discontinued operations, net of income taxes	(3,072)	—	—
Net income	\$ 22,358	\$ 5,971	\$ 17,923
Other Comprehensive income			
Unrealized loss on marketable securities, net of income tax benefit	—	—	(1)
Total comprehensive income	\$ 22,358	\$ 5,971	\$ 17,922
Earnings per share:			
Income from continuing operations	\$ 25,430	\$ 5,971	\$ 17,923
Less: net income allocated to participating securities	3,355	644	—
Income from continuing operations attributable to common stockholders	\$ 22,075	\$ 5,327	\$ 17,923
Income from continuing operations per share:			
Basic	\$ 1.89	\$ 0.42	\$ 0.96
Diluted	\$ 1.72	\$ 0.37	\$ 0.85
Net Income	\$ 22,358	\$ 5,971	\$ 17,923



**Bandwidth Inc.****Consolidated Statements of Operations and Comprehensive Income**  
(In thousands, except share and per share amounts)

Less: income allocated to participating securities		2,950	644	—
Net income attributable to common stockholders	\$	19,408	\$ 5,327	\$ 17,923
Net income per share:				
Basic	\$	1.66	\$ 0.42	\$ 0.96
Diluted	\$	1.51	\$ 0.37	\$ 0.85
Weighted average number of common shares outstanding:				
Basic		11,678,568	12,590,221	18,573,067
Diluted		12,870,632	14,543,170	21,140,382

See accompanying notes.

**Bandwidth Inc.**
**Consolidated Statements of Changes in Redeemable Convertible Preferred Stock and Stockholders' (Deficit) Equity**  
(In thousands, except share and per share amounts)

	Series A redeemable convertible preferred stock		Class A voting common Stock		Class B voting common Stock		Old Class A voting common Stock		Old Class B non- voting common Stock		Additional paid-in capital	Accumulated other comprehensive income (loss)	Accumulated deficit	Total stockholders' (deficit) equity
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance at December 31, 2015	710,000	\$ 21,818	—	\$ —	—	\$ —	11,542,158	\$ 12	18,590	\$ —	\$ 35,434	\$ —	\$ (54,520)	\$ (19,074)
Issuance of Old Class A voting common stock	—	—	—	—	—	—	218,345	—	—	—	1,111	—	—	1,111
Exercise of warrants to purchase common stock	—	—	—	—	—	—	19,472	—	—	—	150	—	—	150
Distribution of Republic	—	—	—	—	—	—	—	—	—	—	(28,899)	—	—	(28,899)
Shareholders' anti-dilutive arrangement	—	—	—	—	—	—	—	—	—	—	(324)	—	—	(324)
Cumulative effect of change in accounting principle	—	—	—	—	—	—	—	—	—	—	—	—	420	420
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	1,884	—	—	1,884
Net income	—	—	—	—	—	—	—	—	—	—	—	—	22,358	22,358
Balance at December 31, 2016	710,000	21,818	—	—	—	—	11,779,975	12	18,590	—	9,356	—	(31,742)	(22,374)
Issuance of Old Class A voting common stock	—	—	—	—	—	—	31,510	—	—	—	94	—	—	94
Issuance of Old Class B non-voting common stock	—	—	—	—	—	—	—	—	16,250	—	109	—	—	109
Exercise of warrants to purchase common stock	—	—	—	—	17,260	—	—	—	—	—	91	—	—	91
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	1,803	—	—	1,803
Purchase of common stock	—	—	—	—	(29)	—	—	—	—	—	—	—	—	—
Conversion of Series A preferred stock to Old Class A voting common stock	(710,000)	(21,818)	—	—	—	—	1,775,000	1	—	—	21,817	—	—	21,818
Conversion of Old Class A voting common stock to Class B voting common stock	—	—	—	—	13,586,485	13	(13,586,485)	(13)	—	—	—	—	—	—
Conversion of Old Class B non-voting common stock to Class A voting common stock	—	—	34,840	—	—	—	—	—	(34,840)	—	—	—	—	—
Issuance of common stock in connection with initial public offering, net of underwriting discounts	—	—	4,000,000	4	—	—	—	—	—	—	74,396	—	—	74,400
Costs in connection with initial public offering	—	—	—	—	—	—	—	—	—	—	(5,385)	—	—	(5,385)

**Bandwidth Inc.**
**Consolidated Statements of Changes in Redeemable Convertible Preferred Stock and Stockholders' (Deficit) Equity**  
(In thousands, except share and per share amounts)

Conversion of Class B voting common stock to Class A voting common stock	—	—	162,991	—	(162,991)	—	—	—	—	—	—	—	—						
Termination of Shareholders' anti-dilutive arrangement	—	—	—	—	—	—	—	—	—	184	—	—	184						
Net income	—	—	—	—	—	—	—	—	—	—	—	5,971	5,971						
Balance at December 31, 2017	—	—	4,197,831	4	13,440,725	13	—	—	—	102,465	—	(25,771)	76,711						
Exercises of vested stock options	—	—	1,724,689	2	—	—	—	—	—	11,044	—	—	11,046						
Vesting of restricted stock units	—	—	11,000	—	—	—	—	—	—	—	—	—	—						
Exercise of warrants to purchase common stock	—	—	48,904	—	—	—	—	—	—	37	—	—	37						
Conversion of Class B voting common stock to Class A voting common stock	—	—	6,929,993	7	(6,929,993)	(7)	—	—	—	—	—	—	—						
Issuance of Class A voting common stock	—	—	330	—	—	—	—	—	—	11	—	—	11						
Costs in connection with initial public offering	—	—	—	—	—	—	—	—	—	(285)	—	—	(285)						
Unrealized loss on marketable securities	—	—	—	—	—	—	—	—	—	—	(1)	—	(1)						
Stock based compensation	—	—	—	—	—	—	—	—	—	3,328	—	—	3,328						
Net income	—	—	—	—	—	—	—	—	—	—	—	17,923	17,923						
Balance at December 31, 2018	—	\$	12,912,747	\$	13	6,510,732	\$	6	—	\$	—	\$	116,600	\$	(1)	\$	(7,848)	\$	108,770

See accompanying notes.

**Bandwidth Inc.**
**Consolidated Statements of Cash Flows**  
(In thousands)

	Year ended December 31,		
	2016	2017	2018
<b>Operating activities</b>			
Net income	\$ 22,358	\$ 5,971	\$ 17,923
Loss from discontinued operations, net of income taxes	3,072	—	—
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	6,142	5,712	5,824
Accretion of bond discount	—	—	(164)
Amortization of debt issuance costs	52	376	64
Stock-based compensation	1,370	1,803	3,339
Deferred taxes	(11,086)	6,168	(10,833)
Loss on disposal of property and equipment	19	91	191
Impairment of intangible asset	695	—	—
Changes in operating assets and liabilities:			
Accounts receivable	(4,043)	(4,387)	(2,784)
Prepaid expenses and other assets	(848)	(1,622)	(1,926)
Deferred costs	(975)	(906)	243
Accounts payable	243	(2,429)	(169)
Accrued expenses and other liabilities	(813)	1,040	4,826
Deferred revenue and advanced billings	510	2,573	6,019
Deferred rent	246	233	2,080
Net cash provided by operating activities from continuing operations	16,942	14,623	24,633
Net cash used in operating activities from discontinued operations	(11,788)	—	—
Net cash provided by operating activities	5,154	14,623	24,633
<b>Investing activities</b>			
Purchase of property and equipment	(3,831)	(5,021)	(12,419)
Capitalized software development costs	(2,230)	(2,942)	(2,028)
Purchase of marketable securities	—	—	(35,236)
Maturities of marketable securities	—	—	18,000
Net cash used in investing activities from continuing operations	(6,061)	(7,963)	(31,683)
Net cash used in investing activities from discontinued operations	(1,311)	—	—
Net cash used in investing activities	(7,372)	(7,963)	(31,683)
<b>Financing activities</b>			
Borrowings on line of credit	56,950	4,000	—
Repayments on line of credit	(68,950)	(9,000)	—
Payments on capital leases	(102)	(73)	(92)
Borrowings on term loan	40,000	—	—
Repayments on term loan	—	(40,000)	—
Payment of debt issuance costs	(554)	(25)	(25)
Payment of costs related to the initial public offering	—	(5,385)	(285)
Proceeds from the initial public offering, net of underwriting discounts	—	74,400	—
Proceeds from issuances of common stock	974	174	11,046
Proceeds from exercises of warrants	150	91	37
Cash distribution to Republic	(30,000)	—	—
Net cash (used in) provided by financing activities	(1,532)	24,182	10,681
Net (decrease) increase in cash, cash equivalents, and restricted cash	(3,750)	30,842	3,631

**Bandwidth Inc.****Consolidated Statements of Cash Flows**  
(In thousands)

Cash, cash equivalents, and restricted cash, beginning of period	10,778	7,028	37,870
Cash, cash equivalents, and restricted cash, end of period	\$ 7,028	\$ 37,870	\$ 41,501
<b>Supplemental disclosure of cash flow information</b>			
Cash paid during the year for interest	\$ 1,314	\$ 1,535	\$ 107
Cash paid for taxes	\$ 6	\$ 855	\$ 155
<b>Supplemental disclosure of noncash investing and financing activities</b>			
Non-cash distribution of net liabilities to Spin-Off	\$ 1,101	\$ —	\$ —
Acquisition of equipment through capital leases	\$ 132	\$ —	\$ —

See accompanying notes.

**Bandwidth Inc.**  
**Notes to Consolidated Financial Statements**  
(In thousands, except share and per share amounts)

**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 a cloud-based, software-powered communications platform-as-a-service (“CPaaS”) provider that enables enterprises to create, scale and operate voice or text 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.

**Initial Public Offering**

On November 9, 2017, the Company’s Registration Statement on Form S-1 relating to the initial public offering (“IPO”) of its Class A common stock was declared effective by the SEC. Immediately prior to the closing of the IPO, the Company’s certificate of incorporation was amended such that (i) each share of the Company’s then-outstanding Class A voting common stock (“Old Class A common stock”) was reclassified as one share of Class B voting common stock (“Class B common stock”), which has ten votes per share, (ii) each share of the Company’s then-outstanding Class B non-voting common stock (“Old Class B common stock”) was reclassified as one share of Class A voting common stock (“Class A common stock”), which has one vote per share and (iii) options and warrants exercisable into the Company’s Old Class A common stock and Old Class B common stock became exercisable into Class B common stock and Class A common stock, respectively. In addition, immediately prior to pricing of the IPO, all shares of the Company’s then-outstanding Series A redeemable convertible preferred stock were converted into Old Class A common stock, which then converted into Class B common stock. In connection with the Company’s IPO, 4,000,000 shares of the Company’s Class A common stock were sold at an initial public offering price of \$20.00 per share for proceeds of approximately \$74,400, net of underwriting discounts and commissions of \$5,600. On November 14, 2017, the outstanding term loan of \$38,500 was paid in full with proceeds from the IPO.

**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.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

### **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. 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. These estimates in the consolidated financial statements include, but are not limited to, allowance for doubtful accounts, recoverability of long lived and intangible assets, customer relationship period, valuation allowances on tax assets, certain accrued expenses, and contingencies.

### **Revenue Recognition**

Revenue consists primarily of the sale of communications services offered through API software solutions to large enterprise, as well as small and medium-sized business, customers and are generally derived from usage and monthly service fees for both the CPaaS and Other segments. Usage revenue includes voice communication (primarily driven by inbound minutes, outbound minutes, 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 provision and management of phone numbers and emergency services access, which is recognized as the service is provided. In addition, the Company earns Carrier Access Billings ("CABS") revenue by allowing interconnected telecommunication carriers to pass traffic through its network and, as such the Company is the principal in delivering communication services to such carriers. Revenue for these services is recognized in the period the usage occurs.

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.

Revenue recognition commences when all of the following criteria are met (i) persuasive evidence of an arrangement exists; (ii) delivery has occurred; (iii) the fee is fixed or determinable; and (iv) collection is probable. Customers generally enter into arrangements that are typically two to three years in length.

### **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 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.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

## **Operating Expenses**

### *Research and Development*

R&D 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, depreciation and amortization.

## **Cash and Cash Equivalents**

The Company classifies all highly liquid investments with stated maturities of three months or less from date of purchase as cash equivalents and all highly liquid investments with stated maturities of greater than three months from the date of purchase as current marketable securities. The Company has a policy of making investments only with commercial institutions that have at least an investment grade credit rating. The Company invests its cash primarily in government securities and obligations, corporate debt securities, money market funds and reverse repurchase agreements ("RRAs"). RRAs are collateralized by deposits in the form of Government Securities and Obligations for an amount not less than 102% of their value. The Company does not record an asset or liability as the Company is not permitted to sell or repledge the associated collateral. The Company has a policy that the collateral has at least an "A" (or equivalent) credit rating. The Company utilizes a third party custodian to manage the exchange of funds and ensure that collateral received is maintained at 102% of the value of the RRAs on a daily basis. RRAs with stated maturities of greater than three months from the date of purchase are classified as marketable securities.



**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

### Restricted Cash

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the consolidated balance sheets that sum to the total of the same such amounts shown in the consolidated statements of cash flows:

	As of December 31,		
	2016	2017	2018
Cash and cash equivalents	\$ 6,788	\$ 37,627	\$ 41,261
Restricted cash	240	243	240
Total cash, cash equivalents, and restricted cash shown in the statements of cash flows	<u>\$ 7,028</u>	<u>\$ 37,870</u>	<u>\$ 41,501</u>

Restricted cash is for Automated Clearing House (“ACH”) availability, customer deposits and for credit card security. The Company has classified this asset as a long-term asset in order to match the expected period of restriction and is included in Other long-term assets in the consolidated balance sheets.

### Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are stated at realizable value, net of an allowance for doubtful accounts. 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 and current economic trends. If the financial condition of customers were to deteriorate, resulting in their inability to make required payments, additional provisions for doubtful accounts would be required and would increase bad debt expense. Management has evaluated the collectability of trade accounts receivable and determined that allowances of approximately \$32,463 and \$906 for uncollectible accounts and customer balances that are disputed were required as of December 31, 2017 and 2018, respectively. The allowance for doubtful accounts as of December 31, 2017 primarily relates to billings for CABS services where collectability was deemed not probable due to prior period customer disputes. Refer to Note 5, “Financial Statement Components,” for a rollforward of the components of the allowance for doubtful accounts as of December 31, 2017 and 2018, and for discussion of the settlement agreement that was entered into in 2018 that resolved the ongoing dispute and litigation with MCI Communications Services, Inc. d/b/a Verizon Business and Verizon Select Services, Inc. (collectively, “Verizon”), which is a CABS customer of the Company.

The Company includes unbilled receivables in its accounts receivable balance. Generally, these receivables represent services provided to customers, which will be billed in the next billing cycle. All amounts are considered collectible and billable. As of December 31, 2017 and 2018, unbilled receivables were \$8,653 and \$11,174, respectively.

### Concentration of Credit Risk

Financial instruments that are exposed to concentration of credit risk consist primarily of cash and cash equivalents, marketable securities 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.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

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, 2017, one customer represented approximately 13% of the Company's accounts receivable, net of allowance for doubtful accounts. As of December 31, 2018, one customer represented approximately 18% of the Company's accounts receivable, net of allowance for doubtful accounts.

For the years ended December 31, 2016, 2017 and 2018, no individual customer represented more than 10% of the Company's total 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	2 to 5 years
Internal-use software development costs	3 years
Furniture and fixtures	2 to 7 years
Leasehold improvements	Shorter of the estimated lease term or useful life

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 contracts or the estimated customer life, which is approximately three years.

### **Software Development Costs**

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 three 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 incurred debt issuance costs associated with obtaining and entering into a five-year Credit and Security Agreement in November 2016, which includes a revolving credit facility and a term loan. These costs include non-refundable structuring fees, commitment fees, up-front fees and syndication expenses, which have been

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

deferred and are being amortized based on the effective interest method over the term of the Credit and Security Agreement. The debt issuance costs associated with the revolving credit facility are recorded as a deferred cost in the accompanying consolidated balance sheets. The unamortized debt issuance costs, which are included in prepaid expenses and other current assets in the accompanying consolidated balance sheets, were \$175 and \$136 as of December 31, 2017 and 2018, respectively. Debt issuance costs associated with the term loan were recognized as an adjustment of the yield of the loan and were reflected as a reduction of the long-term debt balance. On November 14, 2017, the term loan was paid in full and \$260 of unamortized debt issuance costs were recorded as interest expense. As of December 31, 2017 and 2018, unamortized debt issuance costs were \$0.

### **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 two-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, 2017 and 2018, the Company has recorded goodwill of \$6,867. No goodwill impairment charges were recorded for the years ended December 31, 2016, 2017 and 2018.

### **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.

### **Advertising Costs**

The Company expenses advertising costs as incurred. Advertising costs totaled \$197, \$464 and \$953 for the years ended December 31, 2016, 2017 and 2018, respectively, which are included in sales and marketing expenses in the accompanying consolidated statements of operations.

**Notes to Consolidated Financial Statements (continued)**  
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## 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 Black-Scholes option pricing model requires the use of objective and subjective assumptions, which determine the fair-value of stock-based awards. These assumptions include:

- *Fair value of our common stock.* Prior to the Company's IPO, the fair value of the shares of the Company's common stock underlying stock options has historically been established by the board of directors. Numerous objective and subjective factors that were considered included, but were not limited to, the following: i) contemporaneous independent, third-party valuations of the Company's common stock; ii) the rights, preferences and privileges of the Company's redeemable convertible preferred stock relative to those of the Company's common stock; iii) the Company's results of operations, financial position and capital resources; iv) current business conditions and projections; v) the lack of marketability of the Company's common stock; vi) the hiring of key personnel and the experience of the Company's management; vii) the introduction of new products; viii) the risk inherent in the development and expansion of the Company's products; ix) the likelihood of achieving a liquidity event, such as an initial public offering or a sale of the Company, given the prevailing market conditions; x) industry trends and competitive environment; and xi) overall economic indicators, including gross domestic product, employment, inflation and interest rates. After the IPO, the Company uses the market closing price of its Class A common stock as reported on the NASDAQ Global Select Market for the fair value.
- *Expected term.* The expected term was estimated using the simplified method allowed under SEC guidance as the Company does not have sufficient historical data to use any other method to estimate the expected term.
- *Expected volatility.* The expected volatility is derived from an average of the historical volatilities of the common stock of several entities with characteristics similar to those of the Company, such as the size, and operational and economic similarities to its principle business operations. The Company uses this method because it has limited information on the volatility of its common stock.
- *Risk-free interest rate.* The risk-free interest rate is based on the yields of U.S. Treasury securities with maturities similar to the expected term of the options for each option group as of the grant date.
- *Expected dividends.* The expected dividend is assumed to be zero as the Company has never paid dividends and has no current plans to pay any dividends on its common stock.

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, 2018, the Company recognized compensation for only the portion of options expected to vest using an estimated forfeiture rate that was

**Notes to Consolidated Financial Statements (continued)**  
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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 of which are located in the United States. 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 and warrants to purchase common stock and redeemable convertible preferred stock are considered to be potential common stock.

Historically, the Company issued securities other than common stock that participate in dividends ("Participating Securities"), and therefore utilizes the two-class method to calculate net income per share. These Participating Securities include the Series A redeemable convertible preferred stock. The two-class method requires

**Notes to Consolidated Financial Statements (continued)**  
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a portion of net income to be allocated to the Participating Securities to determine the net income attributable to common stockholders. Net income attributable to the common stockholders is equal to the net income less dividends paid on preferred stock with any remaining earnings allocated in accordance with the bylaws between the outstanding common and redeemable convertible preferred stock as of the end of each period. On November 9, 2017, the Participating Securities were converted into shares of Old Class A common stock, which converted to Class B common stock immediately prior to the IPO.

### **Emerging Growth Company Status**

The Company is an “emerging growth company” as defined in the Jumpstart Our Business Startups Act (“JOBS Act”). The JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. The Company has elected to avail itself of this extended transition period and, as a result, it will not adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other public companies.

### **Recently Adopted Accounting Standards**

In May 2017, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2017-09, *Compensation-Stock Compensation (Topic 718), Scope of Modification Accounting*, which amends the scope of modification accounting for share-based payment arrangements. The ASU provides guidance on the types of changes to terms or conditions of share-based payment awards to which an entity would be required to apply modification accounting under ASC 718, Compensation-Stock Compensation. ASU 2017-09 was effective for fiscal years and interim periods within those years beginning after December 15, 2017. The adoption of this standard did not have a material impact on the Company’s financial statements.

In January 2017, the FASB issued ASU 2017-01, *Business Combinations (Topic 805) Clarifying the Definition of a Business*, which amends the guidance of FASB Accounting Standards Codification Topic 805, “Business Combinations,” adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions or disposals of assets or businesses. The definition of a business affects many areas of accounting including acquisitions, disposals, goodwill, and consolidation. This guidance was effective for annual and interim periods beginning after December 15, 2017. The impact from the adoption of this standard is dependent upon future transactions.

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows (Topic 230), Restricted Cash*, which requires a statement of cash flows to explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash and restricted cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. ASU 2016-18 was effective for fiscal years and interim periods within those fiscal years beginning after December 15, 2017. The adoption of this standard did not have a material impact on the Company’s financial statements.

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Cash Payments*, which clarifies how entities should classify certain cash receipts and cash payments on the statement of cash flows. The guidance also clarifies how the predominance principle should be applied when cash receipts and cash payments have aspects of more than one class of cash flows. ASU 2016-15 was effective for fiscal years beginning after December 15, 2017 and interim periods within those fiscal years. The Company adopted this standard retrospectively and it had no material impact on the Company’s financial statements.

**Notes to Consolidated Financial Statements (continued)**  
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### Recent Accounting Pronouncements Not Yet Adopted

In October 2018, the FASB issued ASU 2018-17, *Consolidation (Topic 810), Targeted Improvements to Related Party Guidance for Variable Interest Entities*, which addresses the cost and complexity of financial reporting associated with consolidation of variable interest entities (“VIE”). ASU 2018-17 is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years, with early adoption permitted. The new guidance must be applied on a retrospective basis as a cumulative-effect adjustment as of the date of adoption. Management does not expect the adoption of this guidance to have a significant impact on the Company’s financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*, which eliminates certain disclosure requirements for fair value measurements for all entities, requires public entities to disclose certain new information and modifies some disclosure requirements. This ASU is effective for all entities for fiscal years beginning after December 15, 2019 and for interim periods within those fiscal years, and early adoption is permitted. An entity is permitted to early adopt either the entire standard or only the provisions that eliminate or modify requirements. The Company is evaluating the effect of adopting this new accounting guidance, but does not expect adoption will have a material impact on the Company’s financial statements.

In February 2018, the FASB issued ASU 2018-02, *Income Statement-Reporting Comprehensive Income (Topic 220): Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income*, which addresses the income tax effects of items in accumulated other comprehensive income (“AOCI”) which were originally recognized in other comprehensive income, rather than in income from continuing operations. Specifically, it permits a reclassification from AOCI to retained earnings for the adjustment of deferred taxes due to the reduction of the historical corporate income tax rate to the newly enacted corporate income tax rate resulting from the U.S. tax law changes enacted in December 2017. This ASU is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years, with early adoption permitted. The new guidance must be applied either on a prospective basis in the period of adoption or retrospectively to each period (or periods) in which the effect of the change in the U.S. federal corporate income tax rate in the U.S. tax law changes are recognized. The Company is evaluating the effect of adopting this new accounting guidance, but does not expect adoption will have a material impact on the Company’s financial statements.

In January 2017, the FASB issued ASU 2017-04, *Simplifying the Test for Goodwill Impairment*, which simplifies the accounting for goodwill impairment. The ASU requires impairment charges to be based on the first step in today’s two-step impairment test. ASU 2017-04 is effective for annual and interim impairment tests performed in periods beginning after December 15, 2021, and early adoption is permitted. Management does not expect the adoption of this guidance to have a significant impact on the Company’s financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases*. The standard will affect all entities that lease assets and will require lessees to recognize a lease liability and a right-of-use asset for all leases (except for short-term leases that have a duration of less than one year) as of the date on which the lessor makes the underlying asset available to the lessee. For lessors, accounting for leases is substantially the same as in prior periods. In July 2018, the FASB issued ASU 2018-10, *Codification Improvements to Topic 842, Leases*, to clarify how to apply certain aspects of the new leases standard. In July 2018, the FASB also issued ASU 2018-11, *Leases (Topic 842): Targeted Improvements*, to give entities another option for transition and to provide lessors with a practical expedient to reduce the cost and complexity of implementing the new standard. The transition option allows entities to not apply the new leases standard in the comparative periods they present in their financial statements in the year of adoption. ASU 2016-02 is effective for emerging growth companies following private company adoption dates in fiscal years beginning after December 15, 2019, and interim periods within annual periods beginning after December 15, 2020, and early adoption is permitted. For leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, lessees and lessors must apply a modified retrospective transition



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approach. While the Company expects the adoption of this standard to result in an increase to the reported assets and liabilities, it has not yet determined the full impact the adoption of this standard will have on its financial statements and related disclosures.

In May 2014, the FASB issued ASU 2014-09, “*Revenue from Contracts with Customers*.” This new guidance will replace most existing GAAP guidance on this topic. The new revenue recognition standard provides a unified model to determine when and how revenue is recognized. The core principle is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration for which the entity expects to be entitled in exchange for those goods or services. In August 2015, the FASB issued ASU 2015-14 “*Revenue from Contracts with Customers: Deferral of the effective date*,” which deferred by one year the effective date for the new revenue reporting standard for entities reporting under GAAP. In accordance with the deferral, this guidance will be effective for the Company beginning in the year ended December 31, 2019. This guidance can be applied either retrospectively to each period presented or as a cumulative effect adjustment as of the date of adoption. In December 2016, the FASB issued ASU 2016-20, “*Revenue from Contracts with Customers, Technical Corrections and Improvements to Topic 606*,” which made 12 additional technical corrections and improvements to the new revenue standard. In March 2016, the FASB issued ASU 2016-08, “*Revenue from Contracts with Customers, Principal versus Agent Considerations (Reporting Revenue Gross versus Net)*” clarifying the implementation guidance on principal versus agent considerations. Specifically, an entity is required to determine whether the nature of a promise is to provide the specified good or service itself (that is, the entity is a principal) or to arrange for the good or service to be provided to the customer by the other party (that is, the entity is an agent). The determination influences the timing and amount of revenue recognition. In April 2016, the FASB issued ASU 2016-10, “*Revenue from Contracts with Customers, Identifying Performance Obligations and Licensing*”, clarifying the implementation guidance on identifying performance obligations and licensing. Specifically, the amendments reduce the cost and complexity of identifying promised goods or services and improve the guidance for determining whether promises are separately identifiable. The amendments also provide implementation guidance on accounting for an entity’s promise to grant a license. In May 2016, the FASB issued ASU 2016-12, “*Revenue from Contracts with Customers, Narrow-Scope Improvements and Practical Expedients*,” clarifying guidance on assessing collectability, presentation of sales taxes, noncash consideration, completed contracts and contract modifications. The effective date and transition requirements for ASU 2016-20, ASU 2016-08 and ASU 2016-10 are the same as the effective date and transition requirements for ASU 2014-09, which will be effective for the year ended December 31, 2019. The Company has elected to early adopt this guidance on January 1, 2019.

The Company has selected the modified retrospective transition method of adoption and is in the process of completing its evaluation of the potential impacts of the new standard on its consolidated financial statements and disclosures.

The Company does not expect there will be material changes to its revenue recognition. The Company expects that its revenue will continue to be recognized based on the usage by its customers, in the period the traffic traverses the Company’s network. Based on the Company’s evaluation to date, it expects the revenue related impact will not be material to the Company’s consolidated financial statements.

Based on the Company’s analysis of incremental contract acquisition costs, the Company does not expect any material changes to its accounting for sales commissions, which are currently expensed. 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.

### **3. Discontinued Operations**

On April 20, 2015, the Company created a wholly owned subsidiary, Republic Wireless, Inc. (“Republic”), which was incorporated in Delaware. On November 30, 2016, the Company completed a pro-rata distribution of the common stock of Republic to its stockholders of record as of the close of business (the “Spin-Off”). Each of its



**Notes to Consolidated Financial Statements (continued)**  
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stockholders received one share of Republic common stock for each share of Bandwidth common or redeemable convertible preferred stock held as of the close of business on November 30, 2016. Accordingly, the results of operations, financial condition and cash flows of Republic have been presented as discontinued operations for all periods presented in the accompanying consolidated financial statements.

In addition, the Company distributed \$30,000 in cash to Republic in connection with the Spin-Off. Accordingly, the net assets distributed to the stockholders in connection with the Spin-Off was \$28,899. Bandwidth has not otherwise provided nor does it intend to provide financial support to Republic.

Given the nature of the Spin-Off transaction, the equity holders of Bandwidth are comprised of substantially the same individuals and entities that are the equity owners of Republic. The Company determined the equity owners of Republic are related parties of Bandwidth. As described in Note 15, the Company has certain involvement with Republic via ongoing services arrangements, with these ongoing services arrangements creating a variable interest in Republic. The Company assessed the relationship with Republic under guidance for variable interest entities, and because investors in Republic have disproportionate voting rights, the Company concluded that Republic is a VIE.

Republic is a provider of Wi-Fi centric mobile services directly to retail consumers. Bandwidth determined it is not the primary beneficiary of Republic, as Bandwidth and its related parties do not individually have power to direct the activities that most significantly impact Republic's economic performance and power is not shared. Bandwidth's involvement with Republic involves providing certain support services through the Transition Services Agreement, which does not give it power over key activities. Key activities are directed by the Board of Directors Republic, which require majority approval. Bandwidth does not have direct representation on the Board of Republic and is not able to exert power over its key activities. Bandwidth does not have an implicit variable interest in Republic. Republic is financed primarily through the cash distribution in connection with the Spin-off and its own ongoing operations.

The Company's maximum exposure to loss relating to this variable interest entity is limited to amounts due under the service agreements between Bandwidth and Republic as described in Notes 12, "Commitments and Contingencies" and 15, "Related Parties".

The Spin-Off represented a strategic shift to Bandwidth's business. The Company believes that for US Federal income tax purposes, the Spin-Off will qualify as tax-free for Republic, Bandwidth and its stockholders. The Company entered into a tax sharing agreement with Republic that governs rights and obligations after the Spin-Off regarding income taxes and other taxes, including tax liabilities and benefits, attributes, returns and contests.

The table below provides the operating results of the discontinued operations through the date of the Spin-Off for the year ended December 31, 2016:

	<b>Year ended December 31, 2016</b>
Revenue	\$ 83,156
Direct costs of network services and equipment	(61,582)
Operating expense	(25,502)
Depreciation and interest	(949)
Income tax benefit	1,805
Loss from discontinued operations	<u>\$ (3,072)</u>

**Notes to Consolidated Financial Statements (continued)**  
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#### 4. Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, marketable securities, accounts receivable, accounts payable and accrued expenses approximate fair value as of December 31, 2017 and 2018 because of the relatively short duration of these instruments. Marketable securities consist of U.S. treasury securities not otherwise classified as cash equivalents. All marketable securities are considered to be available-for-sale and are recorded at their estimated fair values. Unrealized gains and losses for available-for-sale securities are recorded in other comprehensive loss.

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.

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, 2017 and 2018:

	Fair value measurements on a recurring basis December 31, 2017			
	Level 1	Level 2	Level 3	Total
<b>Financial assets:</b>				
Money market account (included in cash and cash equivalents)	\$ 28,015	\$ —	\$ —	\$ 28,015
<b>Total financial assets</b>	<b>\$ 28,015</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 28,015</b>

There were no marketable securities as of December 31, 2017.

	Amortized cost or carrying value	Unrealized gains	Unrealized losses	Fair value measurements on a recurring basis December 31, 2018			
				Level 1	Level 2	Level 3	Total
<b>Financial assets:</b>							
Cash and cash equivalents:							
Money market account	\$ 8,194	\$ —	\$ —	\$ 8,194	\$ —	\$ —	\$ 8,194
U.S. Reverse repurchase agreements	26,000	—	—	—	26,000	—	26,000
Total included in cash and cash equivalents	34,194	—	—	8,194	26,000	—	34,194
Marketable securities:							
U.S. treasury securities	17,402	—	(2)	17,400	—	—	17,400
Total marketable securities	17,402	—	(2)	17,400	—	—	17,400
<b>Total financial assets</b>	<b>\$ 51,596</b>	<b>\$ —</b>	<b>\$ (2)</b>	<b>\$ 25,594</b>	<b>\$ 26,000</b>	<b>\$ —</b>	<b>\$ 51,594</b>

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

The Company classifies its marketable securities as current assets as they are available for current operating needs. The following table summarizes the contractual maturities of marketable securities as of December 31, 2018:

	Amortized cost	Aggregate fair value
<b>Financial assets:</b>		
Less than one year	\$ 17,402	\$ 17,400
<b>Total</b>	<b>\$ 17,402</b>	<b>\$ 17,400</b>

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, 2017 and 2018.

The money market account is included in cash and cash equivalents in the consolidated balance sheets as of December 31, 2017 and 2018.

For fixed income securities that had unrealized losses as of December 31, 2018, the Company determined that no other-than-temporary impairment existed. As of December 31, 2018, all securities in an unrealized loss position have been in an unrealized loss position for less than one year. During the years ended December 31, 2017 and 2018, there were \$0 and \$18,000, respectively, in maturities of marketable securities. Interest earned on marketable securities in the years ended December 31, 2017 and 2018 was \$0 and \$77, respectively, and is recorded as other (expense) income, net, in the accompanying consolidated statements of operations and comprehensive income.

## 5. Financial Statement Components

Accounts receivable, net of allowance for doubtful accounts consist of the following:

	As of December 31,	
	2017	2018
Trade accounts receivable	\$ 44,692	\$ 13,620
Unbilled accounts receivable	8,653	11,174
Allowance for doubtful accounts	(32,463)	(906)
Other accounts receivable	343	121
<b>Total accounts receivable, net</b>	<b>\$ 21,225</b>	<b>\$ 24,009</b>

Components of allowance for doubtful accounts are as follows:

	Year Ended December 31,	
	2017	2018
<b>Allowance for doubtful accounts:</b>		
Balance, beginning of period	\$ 255	\$ 189
Charged to bad debt expense	176	454
Deductions (1)	(242)	(421)
<b>Balance, end of period</b>	<b>\$ 189</b>	<b>\$ 222</b>

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

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

	Year ended December 31,	
	2017	2018
<b>Allowance for CABS revenue:</b>		
Balance, beginning of period	\$ 22,316	\$ 32,274
Charged to bad debt expense	—	6
Write-off of previously outstanding and fully reserved billings related to settlement	—	(24,968)
Billings deemed not probable of collection (1)	10,024	357
Revenue recognized from outstanding billings previously deemed uncollectible related to settlement	—	(6,268)
Deductions (2)	(66)	(717)
Balance, end of period	\$ 32,274	\$ 684

(1) Represents amounts billed in the period but where collectibility is not probable based on customers collection experience. Amounts were charged to a contra-revenue account.

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

	Year ended December 31,		
	2016	2017	2018
<b>CABS revenue:</b>			
Billed	\$ 19,838	\$ 19,147	\$ 13,325
Revenue recognized from current billings (2)	9,344	9,123	12,968
Billings deemed not probable of collection (1)	\$ 10,494	\$ 10,024	\$ 357

(1) Represents amounts billed in the period but where collectibility is not probable based on customers collection experience. Amounts were charged to a contra-revenue account.

(2) Does not include \$6,268 in revenue recognized in the year ended December 31, 2018, as a result of a settlement agreement related to previously billed and outstanding and uncollectible invoices.

On January 29, 2018, the Company and Verizon entered into a settlement agreement to resolve an ongoing dispute and litigation with Verizon, which is a CABS customer of the Company. The settlement agreement also resolved Verizon's counter-claims against the Company. Pursuant to the settlement agreement, Verizon made a lump sum payment to the Company on February 8, 2018 of \$4,400, which was recognized as revenue. Immediately following receipt of the \$4,400 payment, the Company issued to Verizon bill credits with respect to other CABS amounts previously billed and reserved to Verizon of \$24,968. The amount credited to Verizon comprised the majority of the allowance for CABS revenue as of December 31, 2017. The Company recognized as revenue \$6,268, including the \$4,400 payment made on February 8, 2018 and the other current outstanding Verizon CABS receivables which had been previously reserved as uncollectible, but for which collection was no longer in doubt as a result of the settlement. The settlement agreement also specifies certain terms for the Company's CABS billings to Verizon prospectively.

Accrued expenses and other current liabilities consisted of the following:

	As of December 31,	
	2017	2018
Accrued expense	\$ 6,851	\$ 8,292
Accrued compensation and benefits	5,237	7,323
Accrued sales, use, and telecom related taxes	3,030	4,742
Deferred rent, current portion	5	298
Other accrued expenses	602	738
Total accrued expenses and other current liabilities	\$ 15,725	\$ 21,393

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

## 6. Property and Equipment

Property and equipment, net consisted of the following:

	As of December 31,	
	2017	2018
Furniture and fixtures	\$ 863	\$ 1,741
Computer and office equipment	7,545	7,662
Telecommunications equipment	19,985	30,694
Leasehold improvements	453	2,438
Software development costs	15,517	16,293
Automobile	10	10
Total cost	44,373	58,838
Less—accumulated depreciation	(29,427)	(33,702)
Total property and equipment, net	\$ 14,946	\$ 25,136

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 three 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 \$3,795 and \$3,271 as of December 31, 2017 and 2018, respectively.

Amortization expense related to capitalized software development costs were \$2,820, \$2,133 and \$1,801 for the years ended December 31, 2016, 2017 and 2018, respectively.

The Company recognized an impairment of \$91, \$81 and \$158 during the years ended December 31, 2016, 2017 and 2018, 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 capitalized \$2,230, \$2,942 and \$2,028 of software development costs in the December 31, 2016, 2017 and 2018, respectively.

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

	Year ended December 31,		
	2016	2017	2018
Cost of revenue	\$ 4,574	\$ 4,315	\$ 4,490
Research and development	29	81	161
Sales and marketing	21	27	51
General and administrative	627	450	568
Total depreciation expense	\$ 5,251	\$ 4,873	\$ 5,270

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

## 7. Intangible Assets

Intangible assets consisted of the following as of December 31, 2017:

	<u>Gross Amount</u>	<u>Accumulated Amortization</u>	<u>Net Carrying Value</u>	<u>Amortization Period (Years)</u>
Customer relationships	\$ 10,396	\$ (3,552)	\$ 6,844	20
Domain name and related trademarks	2,678	(2,643)	35	3–7
Licenses, amortizable	341	(341)	—	2
Non-compete agreements	139	(139)	—	2–5
Developed technology	775	(775)	—	3
Licenses, indefinite lived	764	—	764	Indefinite
<b>Total intangible assets, net</b>	<b>\$ 15,093</b>	<b>\$ (7,450)</b>	<b>\$ 7,643</b>	

Intangible assets consisted of the following as of December 31, 2018:

	<u>Gross Amount</u>	<u>Accumulated Amortization</u>	<u>Net Carrying Value</u>	<u>Amortization Period (Years)</u>
Customer relationships	\$ 10,396	\$ (4,071)	\$ 6,325	20
Domain name and related trademarks	2,678	(2,678)	—	3–7
Licenses, amortizable	341	(341)	—	2
Non-compete agreements	139	(139)	—	2–5
Developed technology	775	(775)	—	3
Licenses, indefinite lived	764	—	764	Indefinite
<b>Total intangible assets, net</b>	<b>\$ 15,093</b>	<b>\$ (8,004)</b>	<b>\$ 7,089</b>	

Amortization expense for definite lived intangible assets was \$891, \$839 and \$554 for the years ended December 31, 2016, 2017 and 2018, respectively. The weighted average amortization period for all definite lived intangible assets is 19 years.

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

	<u>As of December 31, 2018</u>
2019	\$ 520
2020	520
2021	520
2022	520
2023	520
Thereafter	3,725
	<b>\$ 6,325</b>

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

Costs associated with the acquisition and transfer of the CLEC perpetual licenses from other entities have been capitalized and have an indefinite life. The Company evaluates these indefinite lived intangible assets on an annual basis to assess if any impairment exists. The Company performed its annual assessment on December 31, 2017 and 2018 and concluded no impairment exists.

During the year ended December 31, 2016, the Company re-evaluated its marketing and branding usage of the trade name assets acquired in the Dash acquisition as part of its annual evaluation of its intangible assets, and concluded there was no further benefit from the use of the trade name. The Company impaired the asset and recognized a loss of \$695, which is reflected within general and administrative expenses in the accompanying consolidated statements of operations and comprehensive income for the year ended December 31, 2016.

## **8. Debt**

On November 4, 2016, the Company entered into a Credit and Security Agreement with a syndicate of four banks. The agreement includes a \$40,000 term loan, and a \$25,000 revolving loan, which includes a swing line of up to \$1,000 and limits letters of credit commitments to a maximum of \$2,500. Substantially all assets of the Company are pledged as security to the Credit and Security Agreement. The term of the Credit and Security Agreement is five years and matures on November 3, 2021. The interest rate used for the debt is based, at the Company's election, on either the Federal Funds Effective Rate or LIBOR plus a stated margin, as defined in the Credit and Security Agreement. Once the Company repays any portion of the term loan, it cannot be re-borrowed. The Company is entitled to borrow and repay and borrow under the revolving loan at any time during the term of the Credit and Security Agreement. This agreement requires the Company to meet a certain leverage ratio and minimum debt service coverage ratio each quarter on a trailing 12-month basis.

On November 14, 2017, the term loan was paid in full with proceeds from the IPO. As of December 31, 2017 and 2018, the Company had \$0 outstanding on the term loan and revolving loan and was in compliance with all financial and non-financial covenants for all periods presented. The available borrowing capacity under the Credit and Security Agreement revolving loan was \$25,000 as of December 31, 2018.

### *Capital Leases*

The Company leased various equipment under leases accounted for as capital leases with expiration dates through December 2018. As of December 31, 2017, cost and accumulated depreciation of the assets under capital leases recorded by the Company were \$1,951 and \$1,855, respectively. As of December 31, 2018, cost and accumulated depreciation of the assets under capital leases recorded by the Company were \$1,951 and \$1,884, respectively. There were no remaining payments due on the Company's capital lease obligations as of December 31, 2018.

## **9. 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.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

	Year ended December 31,		
	2016	2017	2018
<b>CPaaS</b>			
Revenue	\$ 117,078	\$ 131,572	\$ 164,415
Cost of revenue	71,218	75,859	94,296
Gross profit	\$ 45,860	\$ 55,713	\$ 70,119
<b>Other</b>			
Revenue	\$ 35,057	\$ 31,383	\$ 39,698
Cost of revenue	14,000	13,403	13,849
Gross profit	\$ 21,057	\$ 17,980	\$ 25,849
<b>Consolidated</b>			
Revenue	\$ 152,135	\$ 162,955	\$ 204,113
Cost of revenue	85,218	89,262	108,145
Gross profit	\$ 66,917	\$ 73,693	\$ 95,968

All assets were held in the United States as of December 31, 2017 and 2018.

The Company generates its revenue primarily in the United States. Revenue by geographical area is detailed in the table below (which is determined based on the customer billing address):

	Year ended December 31,		
	2016	2017	2018
United States	\$ 151,618	\$ 162,393	\$ 203,567
International	517	562	546
Total	\$ 152,135	\$ 162,955	\$ 204,113

## 10. Stockholders' (Deficit) Equity

Prior to the IPO, the Company had three classes of stock: 1) Series A redeemable convertible preferred stock ("Series A preferred stock"), 2) Old Class A common stock, and 3) Old Class B common stock.

On October 19, 2017, the Company's Board of Directors approved, and on October 23, 2017 the Company effected, a 2.5-to-1 split of its common stock. In connection with the common stock split, each share of outstanding common stock, option to purchase common stock and warrant to purchase common stock was increased to 2.5 shares of common stock and the exercise price of each outstanding option or warrant to purchase common stock was proportionately decreased. The stock split has been reflected retrospectively in these consolidated financial statements. In connection with the stock split, the conversion ratio of each share of outstanding Series A preferred stock was also adjusted such that each share of outstanding Series A preferred stock converted into 2.5 shares of Old Class A common stock after the 2.5-to-1 split.

### *Redeemable Convertible Preferred Stock*

As of January 1, 2010, the Company had authorized 5,000,000 shares of Series A preferred stock. On February 22, 2011, the Company amended and restated its Certificate of Incorporation such that the Company authorized 1,200,000 shares of preferred stock, all of which have been designated as Series A preferred stock.

On February 22, 2011, the Company completed the issuance of 663,907 shares of Series A preferred stock at \$30.8358 per preferred share. On March 24, 2011, the Company completed the final closing of 46,093 shares of Series A preferred stock at \$30.8358 per preferred share.



**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

Pursuant to the Spin-Off, each holder of Series A preferred stock received a share of Republic Class A voting common stock for each share of Series A preferred stock held by such holder equal to the number of shares of Class A common stock into which such share of Series A preferred stock is then convertible.

As of December 31, 2016, the Company had 710,000 issued and outstanding shares of Series A preferred stock.

On November 9, 2017, each share of Series A preferred stock converted into 2.5 shares of Old Class A common stock at the stockholders' option resulting in the issuance of 1,775,000 shares of Old Class A common stock.

#### *Conversion*

Each share of Series A preferred stock was convertible, at the option of the shareholder, into such number of fully paid and non-assessable shares of common stock as is determined by dividing the Series A original issue price by the Series A conversion price in effect at the time of the conversion. The Series A conversion price was initially equal to \$30.8358 and is subject to adjustment related to dilutive transactions. As a result of the stock split, the conversion ratio of each share of outstanding preferred stock also was adjusted, such that each share of outstanding preferred stock converts into 2.5 shares of Old Class A common stock at a conversion price of \$12.3343.

#### *Liquidation Preference*

In the event of any Liquidation Event or Deemed Liquidation Event, the holders of Series A, preferred stock were entitled to receive, in preference to any distribution of the proceeds to the holders of common stock, an amount per share equal to the greater of (1) an amount equal to the original issue price for Series A preferred stock plus declared but unpaid dividends on such share, plus the product of (a) the number of days elapsed since issuance divided by 365, multiplied by (b) 0.08 multiplied by (c) the Series A original issue price, or (2) such amount as would have been payable had all shares of Series A preferred stock had been converted to common stock immediately prior to such Liquidation or Deemed Liquidation Event. If the proceeds thus distributed among the holders of the Series A preferred stock are insufficient to permit payment to such holders of the full preferential amounts, then the entire proceeds available for distribution shall be distributed ratably. Upon completion of the distribution referred to above, all of the remaining proceeds available for distribution shall be distributed to the holders of the Company's common stock pro rata based on the number of common stock held by each.

#### *Redemption*

Shares of Series A preferred stock were redeemable by the Company out of funds lawfully available at a price equal to the Series A original issue price per share, plus all declared but unpaid dividends thereon, in three annual installments commencing not more than 60 days after receipt by the Company at any time on or after December 31, 2020, from the holders of a majority of the then-outstanding shares of Series A preferred stock. At each redemption date, shares of Series A Preferred stock were redeemable, on a pro-rata basis in accordance with the number of shares of Series A preferred stock owned by each holder, that number of outstanding shares of Series A preferred stock determined by dividing the total number of shares of Series A preferred stock outstanding by the number of remaining redemption dates (including the redemption date to which such calculation applies).

#### *Voting Rights*

The holders of Series A preferred stock were entitled to cast the number of votes equal to the number of whole shares of common stock into which the shares of Series A preferred stock are convertible as of the record date for determining stockholders entitled to vote on such matter. Holders of Series A preferred stock shall vote together

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

with the holders of Old Class A common stock as a single class. The holders of record of the shares of Series A preferred stock, exclusively and as a separate class, were entitled to elect one director of the Company.

The Company could not, without the approval of the holders of record of a majority of the shares of Series A preferred stock, as a separate class, undertake certain actions as specified in the Certificate of Incorporation, as amended and restated as of February 22, 2011 and as subsequently amended.

#### *Dividends*

The amount of any dividend on an outstanding share of Series A preferred stock is determinable based upon the number of shares of common stock into which such Series A preferred stock is then convertible based upon the original issuance price of a share of Series A preferred stock of \$30.8358 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A preferred stock. During the years ended December 31, 2016, 2017 and 2018, no dividends were declared.

#### *Preferred Stock*

On November 9, 2017, the Company filed its second amended and restated certificate of incorporation and authorized 10,000,000 shares of undesignated preferred stock, par value \$0.001, of which no shares were issued and outstanding as of December 31, 2017 and 2018.

#### *Common Stock*

As of December 31, 2016, the Company had two classes of common stock: (1) Old Class A common stock and (2) Old Class B common stock. The Old Class A common stock had one vote per share and the Old Class B common stock had no voting rights.

As of December 31, 2016, there were 11,779,975 shares of Old Class A common stock issued and outstanding at \$0.001 par value per share.

As of December 31, 2016, there were 18,590 shares of Old Class B common stock issued and outstanding at \$0.001 par value per share.

On November 9, 2017, the Company filed its second amended and restated certificate of incorporation. Upon the effectiveness of the Company's second amended and restated certificate of incorporation and the effectiveness of the Company's second amended and restated bylaws, i) each share of Old Class A common stock was reclassified as one share of Class B common stock with ten votes per share, ii) each share of Old Class B common stock was reclassified as one share of Class A common stock with one vote per share. Consequently, the Series A preferred stock, that had previously converted into 2.5 shares of the Old Class A common stock, at the option of the holder, was converted into 1,775,000 shares of Class B common stock.

Subsequent to the effectiveness of the Company's second amended and restated certificate of incorporation, the Company's common stock consists of 120,000,000 authorized shares, par value \$0.001 per share, of which the authorized Class A common stock consists of 100,000,000 shares and the authorized Class B common stock consists of 20,000,000 shares as of December 31, 2017 and 2018.

As of December 31, 2017 and 2018, there were 4,197,831 and 12,912,747 shares, respectively, of Class A common stock issued and outstanding at \$0.001 par value per share.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

As of December 31, 2017 and 2018, there were 13,440,725 and 6,510,732 shares, respectively, of Class B common stock issued and outstanding at \$0.001 par value per share.

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 year ended December 31, 2018, no dividends were declared.

Dividend payments are subject to a restriction by the Company's Credit and Security Agreement prohibiting the Company to pay any dividends or any other distribution or payment on account of or in redemption, retirement or purchase of any capital stock through the term of the agreement.

#### *Option to Purchase Additional Shares*

On November 28, 2017, the Underwriters exercised their option to purchase 162,991 of Class B common stock held by certain selling shareholders. Immediately upon transfer, the shares converted into Class A common stock in accordance with the Company's second amendment and restated certificate of incorporation.

#### *Stock Purchase Warrants*

In connection with four notes payable issued December 20, 2010, the Company granted stock purchase warrants to the previous debt holders. The warrants were exercisable for 30,470 shares of the Company's Old Class A common stock at an exercise price of \$5.80 per share. 15,844 of these warrants were exercised in 2017, resulting in none outstanding at December 31, 2017 and 2018.

The Company granted other stock purchase warrants in 2011 that were exercisable for 43,847 shares of the Company's Old Class A common stock at an exercise price of \$0.001 per share. Warrants outstanding to purchase shares of the Company's Old Class A common stock were 39,000 and 0, respectively, at December 31, 2017 and 2018.

Additional warrants to purchase 9,846 shares of the Company's Old Class A common stock were granted in 2011 at an exercise price of \$5.80 per share. These warrants outstanding at December 31, 2017 and 2018 were 9,846 and 0, respectively.

Warrants to purchase 4,531 shares of the Company's Old Class A common stock were granted in 2017 at an exercise price of \$6.57 per share. These warrants outstanding at December 31, 2017 and 2018 were 2,504 and 0, respectively.

Pursuant to the Spin-Off, each holder of a warrant to purchase common stock was issued a warrant to purchase shares of Republic Class A voting common stock with equivalent economic terms. A total of 51,350 and 0

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

shares of common stock were reserved for the issuance of stock purchase warrants at December 31, 2017 and 2018, respectively.

On November 9, 2017, the Company filed its second amended and restated certificate of incorporation. Upon the effectiveness of the Company's second amended and restated certificate of incorporation and the effectiveness of the Company's second amended and restated bylaws, warrants exercisable for shares of Old Class A common stock became exercisable into shares of Class B common stock.

### ***Spin-Off***

Pursuant to the Spin-Off, (i) each holder of Old Class A common stock received one share of Republic Class A common stock for each share of Old Class A common stock held by such holder, (ii) each holder of Old Class B common stock received one share of Republic Class B non-voting common stock for each share of Old Class B non-voting common stock held by such holder and (iii) each holder of Series A preferred stock received a number of shares of Republic Class A voting common stock for each share of Series A preferred stock held by such holder equal to the number of shares of Old Class A common stock into which such share of Series A preferred stock is then convertible.

### ***Reserved Shares***

The Company had reserved shares of Class A common stock for issuance under stock-based award agreements as follows:

	<b>As of December 31,</b>	
	<b>2017</b>	<b>2018</b>
Stock options issued and outstanding	3,659,791	1,937,370
Nonvested restricted stock units issued and outstanding	—	324,252
Stock purchase warrants issued and outstanding	51,350	—
Stock-based awards available for grant under the 2017 Plan	1,050,000	896,760
	<u>4,761,141</u>	<u>3,158,382</u>

## **11. Stock Based Compensation**

### ***2001 and 2010 Stock Option Plans***

During 2001, the Company adopted the Bandwidth Inc. Stock Option Plan (the "2001 Plan"). As of July 26, 2010, the Company adopted the 2010 Equity Compensation Plan (the "2010 Plan"). On August 24, 2017, the 2010 Plan was amended to provide for a total of 3,466,275 shares of common stock reserved for issuance under the 2010 Plan.

Eligible plan participants include employees, directors and consultants. The 2001 Plan and the 2010 Plan each permit the granting of incentive stock options and non-qualified stock options.

Following the effectiveness of the 2010 Plan, the Company did not make any further grants under the 2001 Plan. On November 9, 2017, the 2010 Plan was terminated in connection with the Company's IPO. 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.

On November 9, 2017, the Company filed its second amended and restated certificate of incorporation. Upon the effectiveness of the Company's second amended and restated certificate of incorporation and the effectiveness of the Company's second amended and restated bylaws, options exercisable into shares of Old Class A

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

common stock and Old Class B common stock became exercisable into shares of Class B common stock and Class A common stock, respectively.

**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, 2018, the shares available for grant under the 2017 Plan were automatically increased by 200,000 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 ("RSU") granted under the 2017 Plan are 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 restricted stock units to its non-employee Board of Directors, some of which vested immediately while others vest 25% as of each calendar quarter immediately following the grant date. Other RSUs awarded to executives and employees generally are earned over a service period of four years.

**Stock options**

The fair value of options granted is estimated on the date of grant using the Black-Scholes option pricing model based on the assumptions in the table below:

	Year ended December 31,		
	2016	2017	2018
Expected dividend yield	—%	—%	—%
Expected stock price volatility	44%	44%-49%	47%
Average risk-free interest rate	1.3%-2.0%	1.9%-2.3%	2.5%
Expected life	6.2 years	6.2 years	6.2 years
Fair value of common stock	\$9.57-\$9.60	\$9.60-\$20.83	\$22.81

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

The following summarizes the stock option activity for the year ended December 31, 2018:

	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, 2017	3,659,791	\$ 6.88	4.38	\$ 59,436
Granted	17,988	22.81		
Exercised	(1,724,689)	6.40		56,313
Forfeited or cancelled	(15,720)	12.10		
Outstanding as of December 31, 2018	<u>1,937,370</u>	\$ 7.41	4.00	\$ 64,596
Options vested and exercisable at December 31, 2018	<u>1,684,575</u>	\$ 6.66	3.44	\$ 57,421
Options vested and expected to vest as of December 31, 2018	<u>1,931,004</u>	\$ 7.39	3.99	\$ 64,422

Aggregate intrinsic value is computed based on the difference between the option exercise price and the estimated fair value of the Company's common stock as of December 31, 2018. Prior to the IPO, the fair value of the Company's common stock was estimated by the Company's board of directors. After the IPO, the fair value of the Company's common stock is the Company's Class A common stock price as reported on the NASDAQ Global Select Market.

The weighted average grant-date fair value of stock options granted was \$4.06, \$7.72 and \$11.10 for the years ended December 31, 2016, 2017 and 2018, respectively.

The total estimated grant date fair value of options vested was \$2,082, \$1,299 and \$979 for the years ended December 31, 2016, 2017 and 2018, respectively.

As of December 31, 2018, total unrecognized compensation cost related to all non-vested stock options was \$1,197, which will be amortized over a weighted-average period of 2.04 years.

**Restricted Stock Units**

The following summarizes the restricted stock unit activity for the periods presented:

	Number of awards outstanding	Weighted-average grant date fair value (per share)
Nonvested RSUs as of December 31, 2017	—	\$ —
Granted	342,423	26.89
Vested	(11,000)	23.73
Forfeited or cancelled	(7,171)	28.74
Nonvested RSUs as of December 31, 2018	<u>324,252</u>	\$ 26.95

As of December 31, 2018, total unrecognized compensation cost related to non-vested RSUs was \$6,769, which will be amortized over a weighted-average period of 3.22 years.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

**Stock-Based Compensation Expense**

The Company recognized total stock-based compensation expense in continuing operations as follows:

	<b>Year ended December 31,</b>		
	<b>2016</b>	<b>2017</b>	<b>2018</b>
Cost of revenue	\$ 61	\$ 80	\$ 114
Research and development	138	155	555
Sales and marketing	182	172	511
General and administrative (1) (2)	989	1,396	2,159
<b>Total</b>	<b>\$ 1,370</b>	<b>\$ 1,803</b>	<b>\$ 3,339</b>

(1) On September 1, 2017, the Company reached a separation agreement with an executive. The agreement resulted in a modification of the former employee's 194,234 outstanding options to purchase common stock, which accelerated the vesting period and extended the exercise period, resulting in the recognition of \$394 of additional stock compensation expense for the year ended December 31, 2017.

(2) On December 21, 2018, the Company reached a separation agreement with an executive. The agreement resulted in a modification of the former employee's 17,725 non-vested restricted stock units, which accelerated the vesting period, resulting in the recognition of \$535 of additional stock compensation expense for the year ended December 31, 2018.

**12. Commitments and Contingencies**

*Operating Leases*

The Company leases approximately 181,000 square feet of office space under operating lease agreements that expire at various dates beginning in 2021 and extend through 2025 in several locations within the United States including its headquarters, which is located in Raleigh, NC. On January 12, 2018, the Company entered into an 84-month operating lease agreement to provide 40,035 square feet of additional office space, which was occupied in September 2018. On March 27, 2018, the Company entered into a 60-month operating lease agreement to provide 5,930 square feet of additional office space, which commenced in June 2018. On July 20, 2018, the Company entered into a 12-month operating lease agreement to provide 2,605 square feet of additional office space, which commenced in July 2018. The leases contain escalation clauses and various landlord concessions including tenant improvement allowances. The Company recognizes the total minimum lease payments on a straight-line basis over the term of the lease.

Future minimum lease payments required under operating leases are as follows:

	<b>As of December 31, 2018</b>
2019	\$ 5,044
2020	5,180
2021	5,254
2022	3,438
2023	1,399
Thereafter	2,343
	<b>\$ 22,658</b>

The Company incurred rent expense of \$2,003, \$3,327 and \$4,331 for the years ended December 31, 2016, 2017 and 2018, respectively, which is included in general and administrative expenses in the consolidated statements of operations and comprehensive income.

In conjunction with the Spin-Off, the Company signed a Facilities Service Agreement with Republic in which the Company agreed to sub-lease 40,657 square feet of office space to Republic. The sub-lease is non

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

-cancellable and extends to May 2022. The Company recorded a reduction of rent expense of \$47, \$949 and \$1,005 for the years ended December 31, 2016, 2017 and 2018 respectively, which is included in general and administrative expenses in the consolidated statements of operations and comprehensive income.

Future minimum sub-lease receipts required under the non-cancellable lease are as follows:

	<b>As of December 31, 2018</b>
2019	\$ 1,042
2020	1,065
2021	1,089
2022	594
	<u>\$ 3,790</u>

#### *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 beginning on January 1, 2016 associated with the services received. The service agreement is non-cancellable and contains annual minimum commitments of \$1,200, to be fulfilled over five years or for as long as the Company continues to receive services from this vendor. In addition, as of December 31, 2018 the Company has \$4,782 in other non-cancellable purchase obligations, consisting of primarily network equipment maintenance and software license contracts, of which \$4,070 will be fulfilled within a year.

#### *Legal Matters*

The Company is involved as a defendant in various 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. In August 2016, the Company received a Civil Investigative Demand from the Consumer Protection Division of the North Carolina Department of Justice, though no formal complaint has been filed in connection with that investigation. The North Carolina Department of Justice is investigating the billing, collection and remission of certain taxes and surcharges associated with 911 service pursuant to applicable laws of the State of North Carolina.

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.

### **13. Employee Benefit Plan**

The Company sponsors a defined contribution 401(k) plan which allows eligible employees to defer a portion of their compensation. The Company, at its discretion, may make matching contributions. The Company made matching contributions of \$716, \$806 and \$1,117 for the years ended December 31, 2016, 2017 and 2018, respectively.



**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

**14. Income Taxes**

Benefit (provision) for income taxes from continuing operations consists of the following:

	Year ended December 31,		
	2016	2017	2018
<b>Current:</b>			
Federal	\$ 66	\$ (448)	\$ 162
State	(58)	(302)	(125)
Total	8	(750)	37
<b>Deferred:</b>			
Federal	9,999	(5,983)	8,945
State	1,087	(185)	1,888
Total	11,086	(6,168)	10,833
<b>Total benefit (provision) for income taxes</b>	<b>\$ 11,094</b>	<b>\$ (6,918)</b>	<b>\$ 10,870</b>

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, 2016, 2017 and 2018:

	Year ended December 31,		
	2016	2017	2018
Federal Tax Rate	34.0 %	34.0 %	21.0 %
State Tax Rate	4.2	4.7	6.3
Non-deductible expenses	5.0	1.2	1.7
Research credit	(2.3)	(1.5)	(13.6)
Stock-based compensation	(24.5)	0.1	(168.0)
Change in valuation allowance	(98.6)	—	—
Deferred tax rate change	0.8	16.1	(0.7)
Other	4.0	(0.9)	(0.8)
<b>Total</b>	<b>(77.4)%</b>	<b>53.7 %</b>	<b>(154.1)%</b>

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

The following table presents the significant components of the Company's net deferred tax assets:

	As of December 31,	
	2017	2018
Deferred tax assets:		
Allowance for doubtful accounts	\$ 48	\$ 57
Accrued liabilities	1,687	2,755
Deferred revenue	395	734
Intangibles	166	85
Stock-based compensation - deferred tax asset	4,668	3,486
Tax credits	2,071	2,690
Net operating losses	26	11,359
Other deferred tax assets	37	61
Total deferred tax assets	9,098	21,227
Less: valuation allowance	—	—
Net deferred tax assets	9,098	21,227
Deferred tax liability:		
Property and equipment	1,797	2,993
Goodwill	582	729
Other liability	193	146
Total deferred tax liabilities	2,572	3,868
Net deferred tax asset	\$ 6,526	\$ 17,359

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 determined that in 2018 no valuation allowance against deferred tax assets was required.

As of December 31, 2018, the Company had approximately \$45,148 in federal net operating loss carryforwards and \$3,691 in federal tax credits. All 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, 2018, the Company had approximately \$36,499 in state net operating loss carryforwards. If not utilized, some state net operating loss carryforwards will expire at various dates beginning in 2023.

In accordance with SEC Staff Accounting Bulletin ("SAB") 118, the Company completed all accounting related to the Act in the fourth quarter of 2018. There was no change made to the provisional re-measurement of the deferred tax balance, which was recorded in the fourth quarter of 2017.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	Year ended December 31,	
	2017	2018
Unrecognized tax benefits—January 1,	\$ 671	\$ 731
Gross increases—tax positions in prior period	—	56
Gross increases—tax positions in current period	64	287
Lapse of statute of limitations	(4)	(28)
Unrecognized tax benefits—December 31,	<u>\$ 731</u>	<u>\$ 1,046</u>

If the \$1,046 of unrecognized tax benefit is recognized, it would impact the effective tax rate.

The Company has not incurred any material tax interest or penalties with respect to income taxes in the years ended December 31, 2017 and 2018.

The Company expects no material changes in the twelve months following December 31, 2018 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. The tax years 2008-2010 and 2012-2016 remain open to examination by the major jurisdictions in which the Company is subject to tax due to the carryforward of net operating losses.

## 15. Related Parties

In connection with the Spin-Off on November 30, 2016, the Company and Republic 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-IPO are comprised of substantially the same individuals and entities that are the equity owners of Republic. The Company has determined the equity owners of Republic are related parties of Bandwidth. The Company has certain involvement with Republic via ongoing services arrangements, with these ongoing services arrangements creating a variable interest in Republic. The Company assessed the relationship with Republic under guidance for variable interest entities. Because investors in Republic have disproportionate voting rights, the Company concluded that Republic is a VIE, but Bandwidth is not a primary beneficiary. The Company's maximum exposure to loss relating to this variable interest entity is limited to amounts due under the service agreements between the Company and Republic.

The Transition Services Agreement specifies certain services to be provided by the Company for a period of up to two years from the Spin-Off. These services include insurance administration, billing and collections, and other technical support as well as legal services related to intellectual property. The Company is compensated by Republic for these services based on costs incurred by the Company. The Company received net compensation under the Transition Services Agreement of \$134, \$575 and \$80 for the years ended December 31, 2016, 2017 and 2018, respectively, which is included in general and administrative expenses in the consolidated statements of operations and comprehensive income. In addition, there was approximately \$15 and \$0 due from Republic as of December 31, 2017 and 2018, respectively, which was recorded within accounts receivable in the accompanying consolidated balance sheets.

The Facilities Sharing Agreement specifies that the Company will sublet office space to Republic for at least 63 months. The Company received rental payments under the Facilities Sharing Agreement of \$47, \$949 and \$1,005 for the years ended December 31, 2016, 2017 and 2018, respectively, which is included in general and

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

administrative expenses in the consolidated statements of operations and comprehensive income. No amounts were due to the Company under the Facilities Sharing Agreement as of December 31, 2017 and 2018.

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 are no amounts outstanding or payable under this agreement as of December 31, 2017 and 2018.

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 Republic of \$173, \$2,451 and \$3,884 for the years ended December 31, 2016, 2017 and 2018, respectively. The Company recognized such amounts as revenue in the accompanying consolidated statements of operations and comprehensive income. As of December 31, 2017 and 2018, the Company had a receivable of \$311 and \$327, respectively, under the Master Services Agreement.

Subsequent to the expiration of the 180-day blackout window on May 9, 2018, Republic employees that held Bandwidth stock options began exercising their options. Upon exercise, Bandwidth withholds the employee tax amounts due from the proceeds. For the year ended December 31, 2018 Bandwidth had collected on behalf of, and remitted withholding tax to, Republic of \$9,213, and had a related payable of \$0 as of December 31, 2018.

## **16. Basic and Diluted Income per Common Share**

During the year ended December 31, 2017, the Company used the two-class method to compute net income per common share, because it had issued securities, other than common stock, that contractually entitled the holders to participate in dividends and earnings. These participating securities included the Company's redeemable convertible preferred stock which had non-forfeitable rights to participate in any dividends declared on the Company's common stock. The two-class method requires earnings for the period to be allocated between common stock and participating securities based upon their respective rights to receive distributed and undistributed earnings.

Under the two-class method, for periods with net income, basic net income per common share is computed by dividing the net income attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period. Net income attributable to common stockholders is computed by subtracting from net income the portion of current period earnings that the participating securities would have been entitled to receive pursuant to their dividend rights had all of the period's earnings been distributed. No such adjustment to earnings is made during periods with a net loss, as the holders of the participating securities have no obligation to fund losses.

Diluted net income per common share is computed under the two-class method by using the weighted average number of shares of common stock outstanding, plus, for periods with net income attributable to common stockholders, the potential dilutive effects of stock options and warrants. The Company analyzed the potential dilutive effect of any outstanding dilutive securities under the "if-converted" method and treasury-stock method when calculating diluted earnings per share, in which it is assumed that the outstanding participating securities convert into common stock at the beginning of the period or date of issuance, if later. The Company reports the more dilutive of the approaches (two-class or "if-converted") as its diluted net income per share during the period.

As of January 1, 2018, the Company no longer had outstanding securities other than common stock, which required holders' participation in dividends and earnings; therefore, the Company no longer was required to calculate EPS under the two-class method. Basic net income per share is computed by dividing net income by the weighted-average number of shares of common stock outstanding during the period. Diluted net income per share is computed by giving effect to all potential shares of common stock, including stock options, stock related to unvested restricted stock awards, and outstanding warrants to the extent dilutive.

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

The components of basic and diluted earnings per share, or EPS, are as follows:

	Year ended December 31,		
	2016	2017	2018
<i>Income from Continuing Operations</i>			
Income from continuing operations	\$ 25,430	\$ 5,971	\$ 17,923
Less: net income allocated to participating securities	3,355	644	—
Income from continuing operations attributable to common stockholders	\$ 22,075	\$ 5,327	\$ 17,923
Income from continuing operations per share:			
Basic	\$ 1.89	\$ 0.42	\$ 0.96
Diluted	\$ 1.72	\$ 0.37	\$ 0.85
<i>Loss from Discontinued Operations</i>			
Loss from discontinued operations, net of income taxes	\$ (3,072)	\$ —	\$ —
Less: loss allocated to participating securities	(405)	—	—
Loss from discontinued operations attributable to common stockholders	\$ (2,667)	\$ —	\$ —
Loss from discontinued operations per share attributable to stockholders:			
Basic	\$ (0.23)	\$ —	\$ —
Diluted	\$ (0.21)	\$ —	\$ —
<i>Net income</i>			
Net income	\$ 22,358	\$ 5,971	\$ 17,923
Less: income allocated to participating securities	2,950	644	—
Net income attributable to common stockholders	\$ 19,408	\$ 5,327	\$ 17,923
Net income per share:			
Basic	\$ 1.66	\$ 0.42	\$ 0.96
Diluted	\$ 1.51	\$ 0.37	\$ 0.85
<i>Weighted Average Number of Common Shares Outstanding</i>			
Basic	11,678,568	12,590,221	18,573,067
Dilutive effect of stock options, restricted stock units, and warrants	1,192,064	1,952,949	2,567,315
Diluted	12,870,632	14,543,170	21,140,382

The following common share equivalents have been excluded from the calculation of weighted-average common shares outstanding, because the effect is anti-dilutive for the periods presented:

	Year ended December 31,		
	2016	2017	2018
<i>Anti-dilutive Disclosure</i>			
Series A redeemable convertible preferred stock outstanding	1,775,000	1,522,123	—
Stock options issued and outstanding	237,185	50,604	—

## 17. Subsequent Events

On January 1, 2019, the Company entered into an amendment to an office building lease relating to 117,719 square feet of office space, which includes the Company's headquarters.

This amendment adds an additional 30,114 square feet and extends the lease term until January 31, 2024. In addition, this amendment gives the Company the option to extend the lease for an additional five-year term, with

**Notes to Consolidated Financial Statements (continued)**  
(In thousands, except share and per share amounts)

certain increases in the annual base rent. The amendment to the office building lease is expected to commence in April 2019. Future expected minimum payments under the amended lease are as follows:

	<b>Amount</b>
2019	\$ 2,402
2020	3,543
2021	3,627
2022	3,845
2023	4,120
Thereafter	345
	<u>\$ 17,882</u>

On January 1, 2019, the Company entered into an amendment to an office building lease relating to 40,657 square feet of office space in conjunction with the Spin-Off. The amendment gives the Company the options to extend the lease for an additional period of approximately 18 months and a subsequent additional five-year term. The amendment to the office building lease commenced in January 2019.

## **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, 2018 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, 2018.

#### ***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 year ended December 31, 2018 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.

**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 2019 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, 2018.

**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 2019 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, 2018.

**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 2019 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, 2018.

**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 2019 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, 2018.

**Item 14. Principal Accountant Fees and Services**

The information required by this item is incorporated by reference to our Proxy Statement relating to our 2019 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, 2018.



**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><u>Exhibit number</u></b>	<b><u>Description of Exhibit</u></b>	<b><u>Form</u></b>	<b><u>File No.</u></b>	<b><u>Exhibit</u></b>	<b><u>Filing Date</u></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="#">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="#">10.1</a>	Credit and Security Agreement among Bandwidth.com, Inc., Keybank National Association, Keybank Capital Markets Inc., Pacific Western Bank, Fifth Third Bank and Silicon Valley Bank, dated as of November 4, 2016.	S-1	333-220945	10.1	10/13/2017
<a href="#">10.2</a>	Form of Indemnification Agreement between Bandwidth Inc. and each of its Executive Officers and Directors.	S-1A	333-220945	10.2	10/30/2017
<a href="#">10.3</a>	2001 Stock Option Plan and forms of awards thereunder.	S-1	333-220945	10.3	10/13/2017
<a href="#">10.4</a>	2010 Equity Compensation Plan and forms of awards thereunder.	S-1	333-220945	10.4	10/13/2017
<a href="#">10.5</a>	Employment Agreement, dated as of October 1, 2008, by and between Bandwidth.com, Inc. and John Murdock.	S-1	333-220945	10.5	10/13/2017
<a href="#">10.6</a>	Employment Agreement, dated as of May 3, 2010, by and between Bandwidth.com, Inc. and W. Christopher Matton.	S-1	333-220945	10.6	10/13/2017
<a href="#">10.7</a>	Employment Agreement, dated as of September 16, 2011, by and between Bandwidth.com, Inc. and Jeff Hoffman.	S-1	333-220945	10.7	10/13/2017
<a href="#">10.8</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="#">10.9</a>	Employment Agreement, dated as of March 1, 2017, by and between Bandwidth.com, Inc. and Henry R. Kaestner.	S-1	333-220945	10.9	10/13/2017
<a href="#">10.10</a>	Consulting Agreement, dated as of February 22, 2010, by and between Bandwidth.com, Inc. and Carmichael Investment Partners, LLC.	S-1	333-220945	10.10	10/13/2017
<a href="#">10.11</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="#">10.12</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
<a href="#">10.13</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="#">10.14</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="#">10.15</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="#">10.16</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="#">10.17</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

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<a href="#">10.18</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="#">10.19</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="#">10.20</a>	Form of Conversion Lock-up Agreement between Bandwidth Inc. and the Key Holders.	S-1A	333-220945	10.20	10/30/2017
<a href="#">10.21</a>	2017 Incentive Award Plan, and forms of award agreements thereunder.	S-1A	333-220945	10.21	10/30/2017
<a href="#">10.22</a>	Office Lease, by and between Keystone-Centennial II, LLC and Bandwidth.com, Inc., dated January 12, 2018.	2017 10-K	001-38285	10.22	2/26/2018
<a href="#">10.23</a>	Office Lease, by and between WP Propco III, LLC and Bandwidth Inc., dated January 1, 2019, Venture III amendment.				Filed herewith
<a href="#">10.24</a>	Office Lease, by and between WP Propco III, LLC and Bandwidth Inc., dated January 1, 2019, Venture I amendment.				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

\* 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.

## SIGNATURES

Pursuant to the requirements of the Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

### BANDWIDTH INC.

Date:	February 15, 2019	By:	<u>/s/ David A. Morken</u> David A. Morken Chief Executive Officer and Chairman (Principal Executive Officer)
Date:	February 15, 2019	By:	<u>/s/ Jeffrey A. Hoffman</u> Jeffrey A. Hoffman Chief Financial Officer (Principal Accounting and Financial Officer)
Date:	February 15, 2019	By:	<u>/s/ John C. Murdock</u> John C. Murdock Director
Date:	February 15, 2019	By:	<u>/s/ Brian D. Bailey</u> Brian D. Bailey Director
Date:	February 15, 2019	By:	<u>/s/ Lukas M. Roush</u> Lukas M. Roush Director
Date:	February 15, 2019	By:	<u>/s/ Douglas A. Suriano</u> Douglas A. Suriano Director

## SEVENTH AMENDMENT TO LEASE

This Seventh Amendment to Lease (the "**Amendment**") is entered into as of this 1<sup>st</sup> day of January, 2019 (the "**Effective Date**"), by and between **WP PROPCO III, LLC**, a Delaware limited liability company (the "**Landlord**"), successor by purchase and assignment to Venture Center LLC; and **BANDWIDTH INC.**, a Delaware corporation, formerly known as "Bandwidth.com, Inc." (the "**Tenant**").

WHEREAS, Landlord is the owner<sup>1</sup> of that certain office building located at 900 Main Campus Drive, Raleigh, North Carolina 27606, commonly known as Venture III (the "**Building**"), of the complex known as Venture Center, containing the Building and other buildings, including the building commonly known as Venture I (collectively, the "**Complex**"), which other buildings are owned by affiliates of Landlord, and, pursuant to Landlord's purchase of the Building, Landlord is the "Landlord" under the Lease, defined below, whereby Tenant leases premises in both the Venture I and Venture III buildings;

WHEREAS, pursuant to that certain Office Lease dated January 22, 2013 (the "**Original Lease**"), as amended by the First Amendment to Lease dated October 11, 2013 (the "**First Amendment**"), the Second Amendment to Lease dated September 15, 2014 (the "**Second Amendment**"), the Third Amendment to Lease dated May 15, 2015 (the "**Third Amendment**"), the Fourth Amendment to Lease dated March 21, 2016 (the "**Fourth Amendment**"), the Fifth Amendment to Lease dated September 26, 2016 (the "**Fifth Amendment**"), the Sixth Amendment to Lease dated November 15, 2016 (the "**Sixth Amendment**"), and the Declaration of Lease Commencement dated April 27, 2017 (the "**Declaration**"; the Original Lease, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment and Declaration are hereinafter collectively referred to as the "**Lease**"), Landlord leases to Tenant certain office space located on the First (1<sup>st</sup>) through Fifth (5<sup>th</sup>) Floors of the Building consisting of an aggregate of approximately 87,605 rentable square feet of space (the "**Existing Space**"; the premises leased by Tenant from time to time under the Lease are referred to as the "**Premises**") comprised of the following:

Suite	Rentable Square Feet
165	7,955
201	8,852
250	1,948
267	7,652
317	5,429
331	4,387
400	25,714
500	25,668

<sup>1</sup> For simplicity, Landlord is referred to herein as the "owner" of the Venture I and Venture III buildings; the parties acknowledge that Landlord is actually the subtenant under a ground lease from The Board of Trustees of the Endowment Fund of North Carolina State University, and Tenant is a sublessee of Landlord.

WHEREAS, also under the Lease, Tenant leases certain office space located on the Third (3rd) and Fourth (4<sup>th</sup>) Floors of the Venture I building consisting of an aggregate of approximately 40,657 rentable square feet of space (the “**Venture I Space**”) comprised of the following:

Venture I Space 40,657 RSF	
Suite	Rentable Square Feet
300	17,073
400	23,584

WHEREAS, the Term of the Lease (the “**Term**”) commenced on February 1, 2015 and is scheduled to expire on July 12, 2022;

WHEREAS, Landlord and Tenant desire to amend the Lease to extend the Term, expand the Premises leased to Tenant in the Building, reduce the Premises by the Venture I Space, and amend certain other terms and conditions of the Lease as set forth herein;

NOW THEREFORE, in consideration of the above premises, the parties agree as follows:

1. Definitions. Unless otherwise defined herein, the capitalized terms used in this Amendment shall have the same definitions set forth in the Lease.
2. Effective Date. Unless otherwise set forth herein, the agreements contained herein shall be effective as of the Effective Date of this Amendment.
3. Reduction of Premises. Landlord and Tenant acknowledge that, contemporaneously with the execution of this Amendment, Tenant and WP PropCo I, LLC, the owner of Venture I (the “**Venture I Owner**”), have executed a separate agreement whereby Venture I Owner, as “landlord,” leases the Venture I Space to Tenant, as “tenant” (such agreement being referred to herein as the “**Venture I Lease**”); consequently, as of the Effective Date hereof (the “**Reduction Date**”), the Premises shall be reduced by eliminating the Venture I Space from the Premises. From and after the Reduction Date, the Premises shall consist solely of the Existing Space. The parties acknowledge and agree that, so long as an affiliate of Landlord owns or is the ground lessee of the Venture I building, an uncured default by Tenant under the Venture I Lease shall also constitute an Event of Default by Tenant under the Lease, as amended herein; and, an uncured Event of Default by Tenant under the Lease, as amended herein, shall constitute a default by Tenant under the Venture I Lease.
4. Extension of Lease Term. The Term of the Lease is hereby extended for a term (the “**Extension Term**”) commencing on July 13, 2022 and expiring on January 31, 2024.
5. Expansion of Premises.
  - (a) Expansion Space. Effective upon the applicable Expansion Date, defined below, the Premises shall be expanded to include the Phase I Space, defined below, and the Phase II Space, defined below (each, a “**Phase**”; collectively, the “**Phases**” and the “**Expansion Space**”).

- (i) *Phase I Space.* The “**Phase I Space**” shall mean an aggregate of approximately 9,068 rentable square feet of space on the First (1<sup>st</sup>) Floor of the Building commonly known as Suites 101, 137, and 145 of the Building (the “**Phase I Space**”). The Phase I Space is shown on **Exhibit A** attached hereto and incorporated herein by this reference.
- (ii) *Phase II Space.* The “**Phase II Space**” shall mean an aggregate of approximately 21,046 rentable square feet of space, which is comprised of approximately 4,236 rentable square feet of space on the Second (2<sup>nd</sup>) Floor of the Building, commonly known as Suite 225, and approximately 16,810 rentable square feet of space on the Third (3<sup>rd</sup>) Floor of the Building, commonly known as Suite 301. The Phase II Space is shown on **Exhibit B** attached hereto and incorporated herein by this reference.
- (iii) *Delivery Dates.* Landlord anticipates that both Phases will be delivered to Tenant for Tenant’s construction of the improvements to such Phases on or before April 1, 2019 (the “**Scheduled Delivery Date**”). The actual date of delivery of the Phase I Space is referred to as the “**Phase I Delivery Date**”; and the actual date of delivery of the Phase II Space is referred to as the “**Phase II Delivery Date**” (each, a “**Delivery Date**”; collectively, the “**Delivery Dates**”).
  - (A) *Existing Phase I Lease.* The parties acknowledge that, as of the Effective Date, the Phase I Space is leased by Landlord to another tenant (the “**Existing Phase I Tenant**”), pursuant to a lease (the “**Existing Phase I Lease**”) the term of which is scheduled to expire on June 30, 2019. By its execution of this Amendment, Landlord represents that Landlord is negotiating with the Existing Phase I Tenant to terminate the Existing Phase I Lease prior to June 30, 2019, and that the Scheduled Delivery Date is based on Landlord’s ability to recover possession of the Phase I Space on or before the Scheduled Delivery Date. In the event that there is a delay in recovering possession of the Phase I Space beyond the Scheduled Delivery Date, then the sole remedy for such delay shall be that the Phase I Delivery Date shall be the date that Landlord recovers possession of the Phase I Space and can deliver such space to Tenant in the condition required by the terms of this Amendment.
  - (B) *Existing Phase II Lease.* The parties acknowledge that, as of the Effective Date, the Phase II Space is leased by Landlord to another tenant, pursuant to a lease the term of which is scheduled to expire on March 31, 2019, and that the Scheduled Delivery Date is based on Landlord’s ability to recover possession of the Phase II Space on or before the Scheduled Delivery Date. In the event that there is a delay in recovering possession of the Phase II Space beyond the Scheduled Delivery Date, then the sole remedy for such delay shall be that the Phase II Delivery Date shall be the date that Landlord

recovers possession of the Phase II Space and can deliver such space to Tenant in the condition required by the terms of this Amendment.

- (iv) *Expansion Dates.* The effective date of the expansion of the Premises to include the Phase I Space (the "**Phase I Expansion Date**") shall be the earlier of (i) the date Tenant commences occupancy of all or any portion of the Phase I Space, for the purpose of conducting Tenant's business in such space; or (ii) thirty (30) days after the Phase I Delivery Date. The effective date of the expansion of the Premises to include the Phase II Space (the "**Phase II Expansion Date**"; each, an "**Expansion Date**"; collectively the "**Expansion Dates**") shall be the earlier of (i) the date Tenant commences occupancy of all or any portion of the Phase II Space, for the purpose of conducting Tenant's business in such space; or (ii) thirty (30) days after the Phase II Delivery Date. Upon the determination of the Expansion Dates, the parties shall execute a certificate confirming such dates, substantially in the form attached hereto as **Exhibit C** and incorporated herein by this reference (the "**Expansion Certificate**"). Effective upon the Expansion Dates, and for the remainder of the Term, as extended herein, the Expansion Space shall become a part of the Premises, and, except as set forth herein to the contrary, Tenant's use and occupancy of the Expansion Space shall be subject to all terms and conditions of the Lease applicable to the Premises. Effective upon the Expansion Date, the Premises will consist of an aggregate of approximately 117,719 rentable square feet of space.

6. Adjustment to Tenant's Rental Obligation. Unless and until adjusted as set forth herein, Tenant's obligation for the payment of Rent shall be and remain governed by the terms of the Lease in effect prior to the Effective Date hereof. Subject to the foregoing, Tenant's obligation to pay Rent under the Lease shall be amended as follows:

- (a) *Expansion Year.* The term "**Expansion Year**" applicable to each Phase shall mean each successive twelve (12) month period throughout the Term, as extended herein, commencing on the applicable Expansion Date; provided that the first Expansion Year shall commence on the applicable Expansion Date and expire (i) on the last day of the month preceding the first anniversary of the applicable Expansion Date, if such Expansion Date occurs on the first day of the month; or (ii) on the last day of the month in which the first anniversary of the applicable Expansion Date occurs, if such Expansion Date occurs on a day other than the first day of the month; each subsequent Expansion Year shall commence on the day following the expiration of the previous Expansion Year; and, the last Expansion Year shall expire upon the expiration of the Extension Term, unless the Term of the Lease is further extended after the Effective Date of this Amendment.
- (b) *Monthly Base Rent for Expansion Space.* The Monthly Base Rent for the Expansion Space shall be paid by Tenant to Landlord at the time and in the manner specified in the Lease for Rent applicable to the Premises; provided, however, that the Monthly Base Rent applicable to the Expansion Space shall be calculated in accordance with the following charts:



**Monthly Base Rent for Phase I Space**

Suites 101, 137 and 145

9,068 RSF

Expansion Year	Monthly Amount
Expansion Year 1	\$28,964.70*
Expansion Year 2	\$29,546.57
Expansion Year 3	\$30,135.99
Expansion Year 4	\$30,740.52
Expansion Year 5	\$31,352.61

*\*Subject to the Abated Rent provision set forth below*

**Monthly Base Rent for Phase II Space**

Suites 225 and 301

21,046 RSF

Expansion Year	Monthly Amount
Expansion Year 1	\$56,122.67*
Expansion Year 2	\$57,245.12
Expansion Year 3	\$58,385.11
Expansion Year 4	\$59,560.18
Expansion Year 5	\$60,752.79

*\*Subject to the Abated Rent provision set forth below*

- (c) *Abated Rent.* Provided that no uncured Event of Default exists at the time of the abatement provided below, Tenant's installment of Monthly Base Rent applicable to each Phase shall be abated during the two (2) full calendar month period commencing on the applicable Expansion Date (the "**Abatement Period**"). This provision shall not be construed to abate any other sums becoming due under the terms of the Lease during the Abatement Period, other than the installments of Monthly Base Rent abated above (collectively, the "**Abated Rent**"); specifically, Tenant shall continue to be responsible for the timely payment of Monthly Base Rent attributable to the Existing Space during the Abatement Period. The principal amount of the Abated Rent, together with interest thereon calculated at the Default Rate, defined below, shall be amortized evenly over the remainder of the Term, as extended herein, existing as of the expiration of the Abatement Period. Upon the occurrence of an uncured Event of Default, then in addition to all of Landlord's other remedies available under the Lease, Tenant shall also become immediately liable to Landlord for the unamortized portion of the Abated Rent existing as of the date of such uncured Event of Default, and interest shall accrue thereon at the Default Rate. Provided, however, that if Landlord elects to exercise its rights under Section 12.02(A) of the Original Lease to accelerate the entire amount of all Rent and other charges due from Tenant for the balance of the Term (in accordance with the terms of such Section), and Landlord obtains a judgment for, or is paid by Tenant, the entire amount of such accelerated sum, then such judgment for or payment of such accelerated sum shall preclude a separate recovery by Landlord under the foregoing terms of this Section of such unamortized portion of the Abated Rent and any interest thereon. As used herein, the term "**Default Rate**" shall mean

the maximum interest rate permitted by applicable law, or fifteen percent (15%) per annum, whichever is less.

- (d) *Monthly Base Rent for Existing Space.* Tenant shall continue to be obligated throughout the Term of the Lease, as extended herein, for the payment of Monthly Base Rent applicable to the Existing Space, which shall continue to be paid at the time and in the manner specified in the Lease, and which shall continue to be calculated in accordance with the terms of the Lease until the commencement of the Extension Term. Effective upon the commencement of the Extension Term, and continuing throughout the Term, as extended herein, the Monthly Base Rent applicable to the Existing Space shall be calculated at the same rates, and adjusted at the same time and in the same manner, as the Monthly Base Rent applicable to the Phase II Space. The Expansion Certificate to be executed by the parties upon the determination of the Expansion Date, as provided above, shall include a chart of the Monthly Base Rent applicable to the Existing Space during the Extension Term, as shown on Exhibit C.
- (e) *Base Rent Adjustment.* The Base Rent adjustment provisions of the Lease shall continue to apply to the Existing Space throughout the Extension Term; provided, however, effective as of the commencement of the Extension Term, the definition of "Base Year" shall be modified to be the calendar year 2022. Effective upon the Expansion Date (i) Tenant shall become responsible for the Tenant's Percentage Share of the Operating Cost Adjustment and the Tax Adjustment applicable to the Expansion Space; (ii) Tenant's Percentage Share applicable to the Expansion Space shall be 25.13% percent (25.13%); and (iii) the Base Year applicable to the Expansion Space shall be the calendar year 2019.
- (f) *Address for Rental Payments.* All payments of Rent shall be made payable to Landlord and shall be sent to Landlord at the following address:

*Lockbox Mailing Address:*

WP PropCo III, LLC  
PO Box 603812  
Charlotte, NC 28260-3812

*[Addresses for payments continued on next page]*

*ACH/Wiring Instructions:*

Account Name:	WP JV LLC
Account Number:	4555651488
Bank Name:	Wells Fargo Bank, N.A.
ACH Routing Number	121000248
Wire Routing Number	121000248

7. Improvements. The Phases shall be delivered to Tenant free of any items of personal property, and in broom clean condition, but otherwise in their existing "as is" condition as of the applicable Delivery Dates. All improvements to the Expansion Space shall be constructed by Tenant in accordance with the work letter agreement attached hereto as **Exhibit D** and incorporated herein by this reference (the "**Work Letter**"). Except as expressly set forth herein and in the Work Letter, Landlord has made no representations or warranties regarding the condition of the Expansion Space or promises to alter or improve the Expansion Space for Tenant's occupancy, or to improve the Existing Space for Tenant's continued occupancy.
8. Signage. Landlord shall, at Landlord's expense, install one (1) Building standard suite identification sign at the primary entrance into each of the Phases, and one (1) listing on the Building directory, reflecting Tenant's occupancy of the Premises, as expanded herein. All signage on the exterior of the Existing Space shall remain in place. Any additional signage Tenant may desired to be installed shall be at Tenant's sole expense, and shall be subject to Landlord's prior written approval.
9. Renewal Option. Tenant shall have the following option to further extend the Lease:
  - (a) *Grant of Renewal Option.* So long as the Lease is in full force and effect; no Event of Default has occurred during the twelve (12) month period prior to Landlord's receipt of the Preliminary Notice, defined below; and no Event of Default exists, at the time of the exercise of the option set forth herein, Tenant is hereby granted the option to further extend the Term of the Lease (the "**Renewal Option**") for one (1) additional period of five (5) years (the "**Renewal Term**"), to commence at the expiration of the Extension Term. The extension of this Lease shall be upon the same terms and conditions of the Lease, except: (i) the Monthly Base Rent and adjustments to Monthly Base Rent applicable during the Renewal Term shall be determined as set forth below; (ii) Tenant shall have no option to extend this Lease beyond the expiration of the Renewal Term; (iii) Tenant shall not have the right to assign its extension rights to any subtenant of the Premises or assignee of the Lease, nor may any such subtenant or assignee exercise or enjoy the benefit of the Renewal Option; and (iv) the leasehold improvements will be provided in their then existing condition at the time the Renewal Term commences.
  - (b) *Preliminary Notice.* If Tenant intends to exercise the Renewal Option, Tenant shall provide Landlord with written notice, in accordance with the Notices provision of this Lease, as amended herein (the "**Preliminary Notice**"), of such intention at least twelve (12) months, but no earlier than eighteen (18) months, prior to the expiration of the Extension Term. If Tenant does not provide Preliminary Notice to Landlord,

in accordance with the terms of this paragraph, that Tenant intends to exercise the Renewal Option, then the Renewal Option set forth herein shall expire, and Tenant shall not thereafter have any right to exercise the Renewal Option or otherwise acquire an interest in the Premises after the expiration of the Extension Term.

- (c) *Rental Applicable During Renewal Term.* Within thirty (30) days after Landlord's receipt of Tenant's Preliminary Notice, Landlord shall provide Tenant with written notice (the "**Rent Notice**"), of the Monthly Base Rent that will be applicable during the Renewal Term, and the Base Year that will be used for purposes of determining the adjustments to Monthly Base Rent that will be applicable during the Renewal Term (collectively, the "**Renewal Term Rent**"). The Renewal Term Rent shall be determined by Landlord, and shall consist of Landlord's good faith determination of the market rental rate for the Premises as of the commencement of the Renewal Term, taking into consideration such factors as rental for comparable premises in the Building, and in other buildings in the Complex; the applicable base year; rental for comparable premises in existing buildings in the same geographical area as the Building (taking into consideration, but not limited to, use, quality, age and location of the applicable building); the rentable area of the premises being leased; the length of the pertinent rental term; the quality and creditworthiness of the tenant, and such other factors as Landlord may reasonably determine are relevant.
- (d) *Renewal Notice.* If, after review of Landlord's determination of the Renewal Term Rent, Tenant elects to exercise the Extension Option, then, no later than fifteen (15) days after Tenant's receipt of Landlord's Rent Notice, Tenant shall provide written notice of such election (the "**Renewal Notice**") to Landlord in accordance with the Notices provision of this Lease. Tenant shall, within thirty (30) days after presentation by Landlord, execute an amendment to the Lease, which amendment shall reflect the extension of the Term of the Lease through the expiration of the Renewal Term, and the Renewal Term Rent (including the specification of the Monthly Base Rent and the Base Year that will be applicable during the Renewal Term). If, after providing Landlord with Tenant's Preliminary Notice, Tenant does not provide Landlord with the Renewal Notice required hereunder in order to exercise the Renewal Option, then the Renewal Option shall expire; Tenant's Preliminary Notice shall be of no further force or effect; and it shall be as if the Preliminary Notice had never been provided by Tenant to Landlord. If, however, after Tenant provides its Renewal Notice to Landlord, Tenant fails to execute the amendment to the Lease as required by the terms of this paragraph, the Term of the Lease shall nonetheless be extended in accordance with the terms of this Renewal Option.
- (e) *Renewal Option Personal to Tenant.* The parties expressly agree that the Renewal Option granted to Tenant herein shall be "personal" to Tenant and may not be exercised if Tenant has assigned the Lease or sublet all or any portion of the Premises; and it may not be exercised by Tenant if Tenant is, at the time that the Renewal Notice is provided by Tenant to Landlord, negotiating with Landlord or a potential assignee or subtenant to either assign the Lease or to sublet all or a portion of the Premises.

10. Parking. The Parking provisions of Paragraph 7 of the Fifth Amendment shall continue to apply throughout the Term, as extended herein; provided however, that as of the Effective Date (i) the aggregate of the parking spaces allocated to Tenant by the parking ratio set forth in such paragraph and any Additional Parking Spaces provided to Tenant, shall not exceed 4.5 parking spaces per 1,000 square feet of rentable square feet in the Premises from time to time; and (ii) the first thirty (30) Additional Parking Spaces provided to Tenant shall be at no charge through the Term, as extended herein, with any additional spaces being provided subject to the parking charges stated in such paragraph.
11. After-Hours Services. HVAC services provided to Tenant outside of Building Operating Hours ("**After-Hours HVAC Services**") shall continue to be provided to Tenant in accordance with the provisions of the Lease; provided however that (i) HVAC services during Building Operation Hours on Saturdays shall be upon reasonable prior notice; and (ii) the second and last sentences of Section 5.02 of the Original Lease, regarding After-Hours HVAC Services, are hereby deleted and replaced with the following provision:
- "Tenant may periodically request, and Landlord shall furnish electricity and After-Hours HVAC Services to the Premises, provided Tenant requests such service in accordance with Landlord's procedures in effect from time to time for requesting such service. For After-Hours HVAC Services, Tenant shall reimburse Landlord for this service at the then existing rate being charged in the Building for such services, which, as of the Effective Date hereof, is Fifty Dollars (\$50.00) per hour, per tenant, per floor; such rate shall be subject to adjustment if adjusted generally for tenants of the Building."
12. Landlord and Landlord's Notice Address. Section 1.01(B) of the Original Lease is hereby deleted and replaced with the following:

WP Propco III, LLC  
Attn: General Counsel  
800 N. Magnolia Avenue, Suite 1625  
Orlando, Florida 32803

*with copies to:*

PKY Manager NC, LLC  
Attn: Managing Director  
1372 Peachtree Street  
Atlanta, GA 30309

*[Addresses for notices continued on next page]*

*and:*

PKY Manager NC, LLC  
Attn: Senior Property Manager, Venture Center  
1730 Varsity Drive, Suite 115  
Raleigh, NC 27607

13. Landlord's Property Manager. The Manager, defined in Section 1.01(Q) of the Original Lease is hereby revised to be PKY Manager NC, LLC, a Delaware limited liability company.
14. Right of First Offer. The parties acknowledge that as a result of the expansion of the Premises set forth above, Tenant will lease the entire rentable area of the Second (2<sup>nd</sup>) Floor of the Building; accordingly, the Right of First Offer contained in Paragraph 6 of the First Amendment which was applicable to such space is hereby deleted from the Lease.
15. Lender Approval. This Amendment is contingent upon the approval of the lender whose security interest encumbers the Building as of the Effective Date hereof. Landlord shall exert commercially reasonable efforts to obtain such approval as soon as possible following the Effective Date.
16. Agency Disclosure. CB Richard Ellis-Raleigh LLC, ("**Landlord's Authorized Broker**") represents Landlord's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to separate, written agreement fully executed by Landlord's Authorized Broker and Landlord prior to full execution of this Amendment. Landlord's Authorized Broker has not represented Tenant in this transaction. Tenant warrants and represents that it has had no dealings with any broker in connection with the negotiation or execution of this Amendment other than Landlord's Authorized Broker. Tenant shall indemnify and hold harmless Landlord from and against, any brokerage or leasing commission or finder's fee claimed by any party in connection with this Amendment which may be made by any person, firm or entity, based upon any agreement made or alleged to have been made by Tenant or Tenant's agent or representative, or the conduct or the alleged conduct of Tenant or Tenant's agent or representative.
17. Lease in Effect. Except as modified herein, all terms and conditions of the Lease in effect as of the Effective Date hereof shall be and remain in full force and effect, and the same are hereby ratified and affirmed by Landlord and Tenant.

*[Signatures appear on next page]*

IN WITNESS WHEREOF, the undersigned have sealed and executed this Amendment as of the Effective Date stated above.


**“LANDLORD”:**

**WP PROPCO III, LLC,**  
a Delaware limited liability company

By:   
Kate Urey, Managing Director

**“TENANT”:**

**BANDWIDTH INC.,**  
a Delaware corporation

By:   
[Signature]

Typed Name: David Morken

Title: CEO

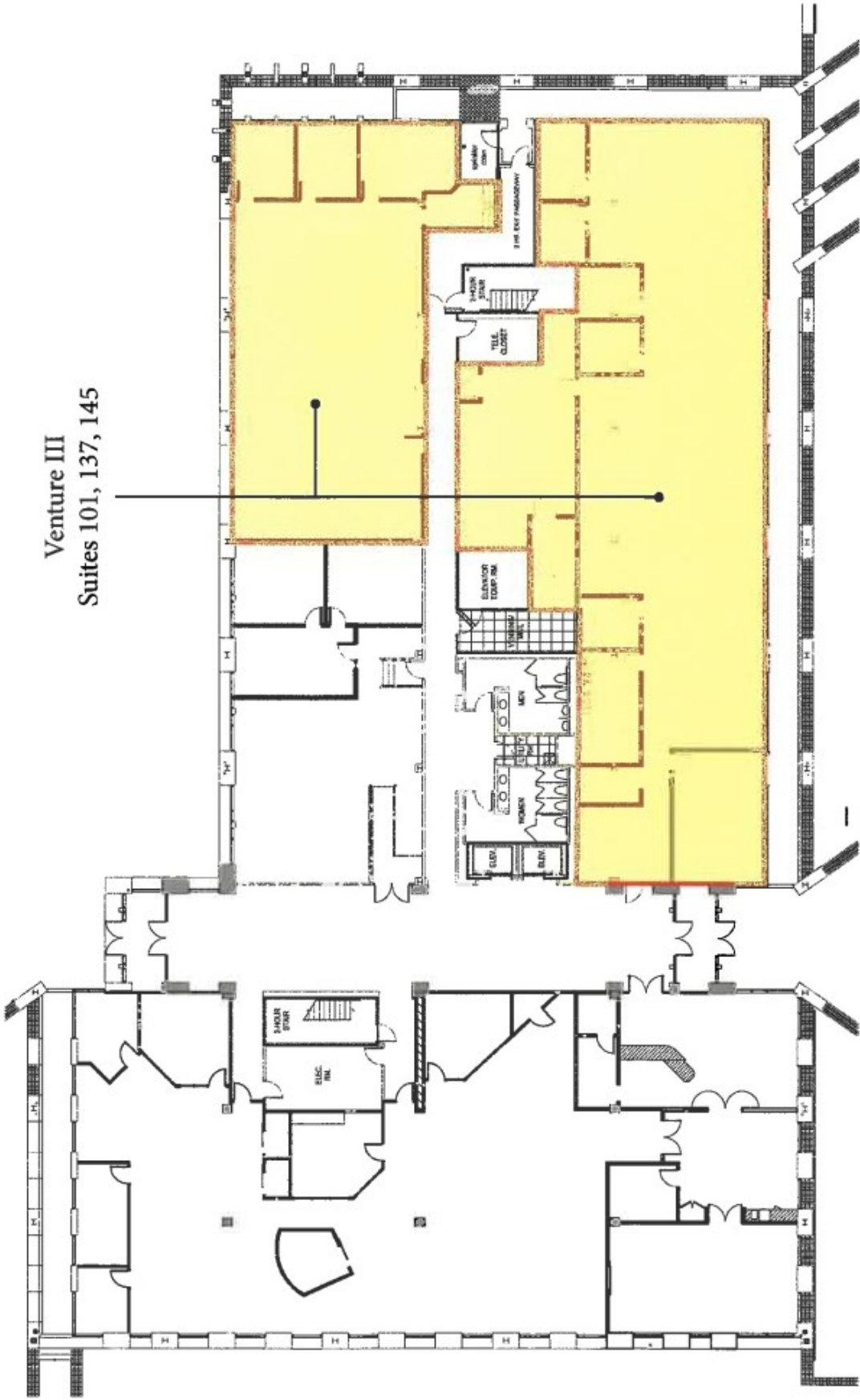
**EXHIBIT A**  
**FLOOR PLAN OF PHASE I SPACE**

*[Floor plan of Phase I Space to be attached hereto  
prior to execution of this Amendment]*





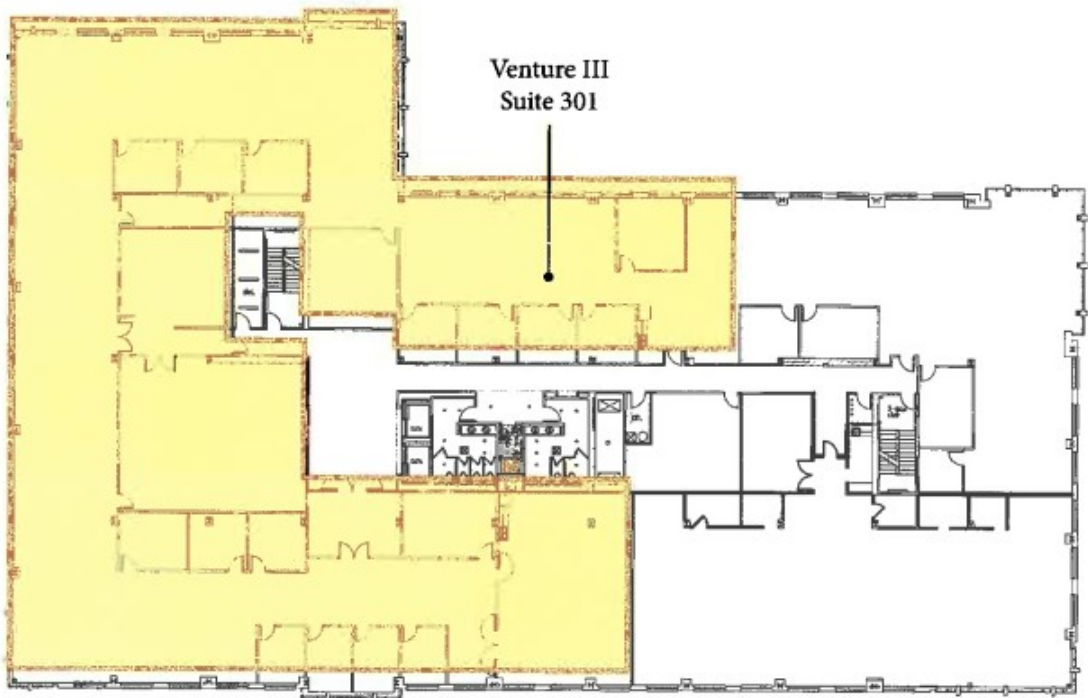
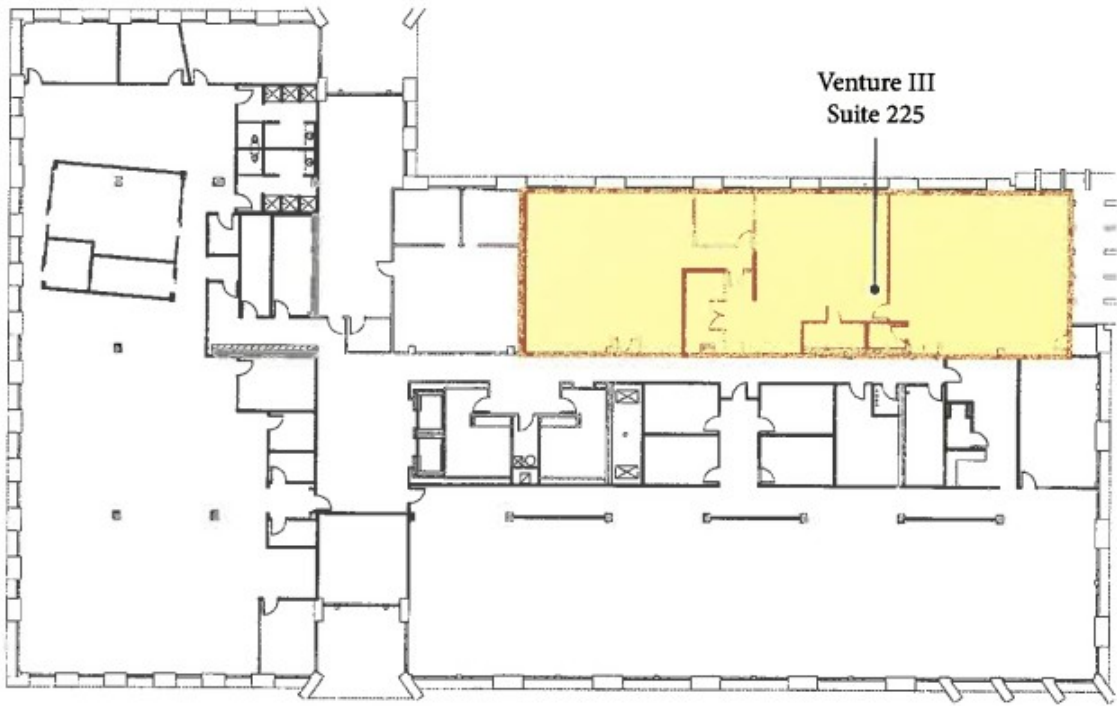
Venture III  
Suites 101, 137, 145



**EXHIBIT B**  
**FLOOR PLAN OF PHASE II SPACE**

*[Floor plan of Phase II Space to be attached hereto  
prior to execution of this Amendment]*

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**EXHIBIT C  
CERTIFICATE CONFIRMING EXPANSION DATE**

This Certificate Confirming Expansion Date (the “**Certificate**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”), and is attached to and made a part of the Seventh Amendment to Lease dated \_\_\_\_\_, 2018 (the “**Seventh Amendment**”), by and between **WP PROPCO III, LLC**, a Delaware limited liability company (the “**Landlord**”) and **BANDWIDTH INC.**, a Delaware corporation (the “**Tenant**”).

1. Confirmation of Expansion Dates. The undersigned hereby agree and confirm that the Phase I Expansion Date occurred on \_\_\_\_\_, 20\_\_, and the Phase II Expansion Date occurred on \_\_\_\_\_, 20\_\_.
2. Monthly Base Rent applicable to Expansion Space. The charts for the Monthly Base Rent applicable to the Expansion Space, set forth in Paragraph 6(b) of the Seventh Amendment, are hereby replaced with the following Monthly Base Rent charts:

**Monthly Base Rent for Phase I Space**  
Suites 101, 137 and 145  
9,068 RSF

Period	Monthly Amount
[Insert Dates]	\$28,964.70*
[Insert Dates]	\$29,546.57
[Insert Dates]	\$30,135.99
[Insert Dates]	\$30,740.52
[Insert Dates]	\$31,352.61

*\*Subject to the Abated Rent provision set forth in Paragraph 6(c) of the Seventh Amendment*

**Monthly Base Rent for Phase II Space**  
Suites 225 and 301  
21,046 RSF

[Insert Dates]	Monthly Amount
[Insert Dates]	\$56,122.67*
[Insert Dates]	\$57,245.12
[Insert Dates]	\$58,385.11
[Insert Dates]	\$59,560.18
[Insert Dates]	\$60,752.79

*\*Subject to the Abated Rent provision set forth in Paragraph 6(c) of the Seventh Amendment*

3. Monthly Base Rent applicable to Existing Space. Monthly Base Rent for the Existing Space during the Extension Term, calculated in accordance with the terms of Paragraph 6(d) of the Seventh Amendment, is shown in the following chart:

[Monthly Base Rent chart appears on next page]

**Monthly Base Rent for Existing Space**  
87,605 RSF

Period	Monthly Amount
07/13/22 - <i>Insert Date</i> ]	\$247,922.15
<i>[Insert Date – 01/31/24]</i>	\$252,886.43

IN WITNESS WHEREOF, the undersigned have sealed and executed this Certificate as of the Effective Date stated above.

**“LANDLORD”:**

**WP PROPCO III, LLC,**  
a Delaware limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**“TENANT”:**

**BANDWIDTH INC.,**  
a Delaware corporation

By: \_\_\_\_\_  
*[Signature]*

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT D**  
**WORK LETTER**

This Work Letter supplements the Amendment to which this Work Letter is attached and, together with the Amendment, governs the construction of the Improvements to the Expansion Space and the Existing Space. All capitalized terms appearing in this Work Letter shall have the same meaning as those appearing in the Amendment or in the Lease, except as expressly modified herein.

**1. Delivery of Expansion Space**

Landlord shall deliver the Phases comprising the Expansion Space to Tenant in accordance with the terms of the Amendment. The period commencing on the applicable Delivery Date and expiring on the applicable Expansion Date is referred to herein as the “**Construction Period**,” and Tenant’s access to a Phase for the purpose of constructing the Improvements to such Phase shall not constitute conducting business from such Phase for the purpose of determining the Expansion Date applicable to such Phase.

**2. Improvements**

- a. The design and construction of the improvements shown in the Final Plans defined below (the “**Improvements**”) shall be at the expense of Tenant except to the extent of the Improvement Allowance defined below. The Improvements shall be constructed in accordance with the terms of this Work Letter and the terms of the Lease regarding alterations to the Premises.
- b. The cost of the Improvements shall include all “hard” construction costs (e.g., materials) and related “soft” costs (e.g., architectural fees, construction management fees and other indirect construction costs incurred by Tenant or its contractor in constructing the Improvements) incurred by Tenant in constructing the Improvements (“**Tenant’s Costs**”). Notwithstanding the construction of the Improvements by Tenant, if construction of the Improvements is managed by Landlord, then Tenant shall pay to PKY Manager NC, LLC (“**PKY Manager**,” an affiliate of Landlord ) a construction management fee equal to four percent (4%) of the total cost of the Improvements (the “**Construction Management Fee**”), and if construction of the Improvements is managed by Tenant, then Tenant shall pay to PKY Manager a construction oversight fee equal to one percent (1%) of the total cost of the Improvements (the “**Construction Oversight Fee**”), and in either event, such fee shall be deducted from the Improvement Allowance. The total amount of the Tenant’s Costs and the Construction Management Fee or the Construction Oversight Fee (each, a “**Construction Fee**”) is referred to herein as the “**Improvement Costs**.”
- c. “**Improvement Allowance**” shall mean an allowance equal to the aggregate of (i) Thirty Dollars (\$30.00) per rentable square foot of the Expansion Space and (ii) Two Dollars (\$2.00) per rentable square foot of Existing Space, to be provided by Landlord as set forth in the Improvement Allowance Section below. The Improvement Allowance may be allocated by Tenant to the Existing Space and/or the Expansion Space in such manner as Tenant determines to be appropriate. The Improvement Allowance shall be made available to Tenant for use during the period commencing on the earlier of the Delivery Dates, defined in Paragraph 5(a)(iii) of the Amendment, and expiring on the last day of the month occurring twelve (12) months after such Delivery Date (the “**Allowance Expiration Date**”).

**3. Tenant Plans**

- a. Tenant shall retain an architect reasonably acceptable to Landlord, which architect shall be licensed in the state in which the Building is located (the “**Architect**”), to prepare the Tenant Plans and the Final Plans, defined below.
- b. Tenant shall cause the Architect to prepare, and Tenant shall deliver to Landlord for Landlord’s approval, the following proposed drawings for the Improvements (“**Tenant Plans**”):
  1. architectural drawings (consisting of floor construction plan, ceiling lighting and layout, power and telephone plan);
  2. mechanical drawings (consisting of HVAC, electrical, telephone, and plumbing); and
  3. finish schedule (consisting of wall finishes, floor finishes, and miscellaneous details).

- c. Within ten (10) business days after Landlord receives the Tenant Plans, Landlord shall approve the Tenant Plans or provide comments regarding any objections to the Tenant Plans. Tenant shall then diligently revise the Tenant Plans to address all of Landlord's comments. After the Tenant Plans have been approved by Landlord, Tenant shall proceed to engage a contractor for the construction of the Improvements, pursuant to the terms of this Work Letter. The Tenant Plans as approved by Landlord and Tenant shall be known as the "Final Plans."
- d. The Tenant Plans and Final Plans shall comply with all applicable Laws. Neither review nor approval by Landlord of the Tenant Plans or Final Plans shall constitute a representation or warranty by Landlord that such plans either (1) are complete or suitable for their intended purpose or (2) comply with applicable Laws, it being expressly agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability, or compliance.
- e. Tenant shall not, without Landlord's prior written approval, make any changes to the Final Plans. If Tenant desires to change the Final Plans, Tenant shall, at its expense, provide to Landlord plans and specifications for such change(s). All such plans and specifications shall be subject to Landlord's written approval, which will not be unreasonably withheld or delayed. Notwithstanding the foregoing, immaterial changes may be made to the Final Plans without Landlord's prior approval, provided that Tenant provides Landlord with prior written notice of any such change.

#### 4. Construction of Improvements

- a. Upon the full execution of the Amendment and the approval by both parties of the Final Plans, Tenant shall proceed to construct the Improvements in accordance with the Final Plans, the Lease and all applicable laws. All work and materials required under the Final Plans shall be equal to, or of a quality superior to, Landlord's specifications standard materials and finishes to be used for construction in the Building ("**Building Standard**").
- b. Tenant shall engage the Contractor for the construction of the Improvements in accordance with Section 5 of this Work Letter. Unless otherwise agreed in writing by Landlord and Tenant, all work involved in the construction and installation of the Improvements shall be carried out by Contractor under a direct contract with Tenant.
- c. All contractors engaged by Tenant shall be required to comply with the Construction Rules and Regulations for the Building, a copy of which is attached as **Exhibit A** to this Work Letter.
- d. The Contractor, and all contractors performing any work in connection with the construction of the Improvements, shall be required to provide evidence of insurance naming as additional insureds Landlord, and all other entities required to be named as additional insureds under the insurance policies Tenant is required to maintain under Section 17 of the Original Lease, and which satisfies the requirements of the Lease and this Work Letter relating to the construction of the Improvements.
- e. Under no circumstances will Tenant or Tenant's authorized representatives alter or modify, or in any manner disturb, any Building System, except as shown on and in strict compliance with the Final Plans. Only with Landlord's prior written consent (which may be withheld in Landlord's discretion) and under direct supervision of Landlord shall Tenant or Tenant's authorized representative alter, add to or modify, or in any manner disturb any branch system or installation of the Building which is located within the Premises (for the purposes of this Section "**branch**" shall be defined as that portion of any Building System or component of a Building System which serves to connect or extend Building Systems into the Premises).
- f. Notwithstanding anything to the contrary set forth herein, Tenant hereby waives all claims against Landlord for damage to any property or injury to, or death of any person in, on or about the Premises or the Building arising out of or in any way related to the construction of the Improvements in the Premises by Contractor, unless solely caused by, or solely resulting from, the gross negligence or willful misconduct of Landlord, its employees, agents, contractors or representatives, and then only if such damage, injury, death or loss is not covered by insurance of the type required to be carried by Tenant or the Contractor hereunder. Tenant shall, and hereby does agree to, indemnify, defend and hold Landlord harmless from and against any and all claims, causes of action, damages, costs and expenses arising out of the construction of the Improvements, including, but without limitation, personal injury or property damage, the imposition of any lien against the Premises or the Building and matters arising out of the failure of the Improvements to comply with applicable laws. Any claim made by Tenant against Landlord whether under this Work Letter, the Lease or otherwise, shall be subject to the limitation of liability provisions of the Lease.



- g. Landlord shall have the right at any time and from time to time to inspect the Premises during the Construction Period. Landlord shall have the right to review and inspect the construction of Improvements by Tenant to ensure compliance with the Final Plans, and in the event that Landlord gives notice to Tenant of non-compliance with the Final Plans, Tenant shall promptly undertake to correct such deficiencies in order to bring the construction of the Initial Improvement into compliance with the Final Plans and all applicable Laws.
- h. “**Substantial Completion**” shall mean the date the certificate of occupancy (the “**Certificate of Occupancy**”) for a Phase, as improved by the Improvements, is issued by the appropriate governmental authority with jurisdiction over the Building, if a Certificate of Occupancy is required due to the nature of the Improvements to such Phase. Tenant shall provide Landlord with a copy of the Certificate of Occupancy immediately upon Tenant’s receipt of same.
- i. Tenant shall notify Landlord of the estimated date of Substantial Completion of the Improvements at least seven (7) days prior thereto. Tenant and Landlord shall then set a mutually acceptable time for Tenant’s Architect and Landlord to inspect the Premises, at which time Landlord shall prepare and submit to Tenant a punch list of items to be completed. Tenant shall diligently complete the punch list items. Upon completion of the Improvements, Tenant shall furnish Landlord with a complete set of “as-built” construction plans and drawings of the Improvements, in both paper and electronic format as reasonably requested by Landlord.
- j. The Contractor and any subcontractors participating in the construction of the Improvements shall guarantee that their work shall be free from any and all defects in workmanship and materials for the period of time which customarily applies in buildings comparable to the Building, but in no event for less than one (1) year after the applicable Expansion Date. The foregoing guarantees of the Contractor and any subcontractors shall include the obligation to repair or replace in a first-class and workmanlike manner, and without any additional charge, all defects in workmanship and materials. All warranties or guarantees as to materials or workmanship on or with respect to the Improvements shall be contained in the contracts and subcontracts for performance of the Improvements and shall be written so that they shall inure to the benefit of Landlord and Tenant as their respective interests may appear, and so that they can be directly enforced by either Landlord or Tenant, and Tenant shall give to Landlord any assignment or other documentation necessary to effectuate the same.
- k. Landlord shall own all Building Standard Improvements as part of the Building. All improvements that are above Building Standard (“**Above Standard Improvements**”) shall be and remain the property of Tenant, until the expiration or earlier termination of the Lease or Tenant’s right to possession of the Premises under this Lease, at which time such Above Standard Improvements shall become the property of Landlord and shall be surrendered to Landlord with the Premises, unless Landlord specifies, at the time of the approval of the installation of such Above Standard Improvements, that Landlord will require Tenant to remove same upon the expiration or earlier termination of the Lease or Tenant’s right to possession of the Premises under the Lease. Any required removal of Above Standard Improvements shall be at Tenant’s expense, and upon such removal, Tenant shall repair any damage to the Premises resulting from such removal. Tenant shall, at Tenant’s expense, be responsible for cleaning and maintaining any Above Standard Improvements in good condition and repair throughout the Term of this Lease. Tenant shall insure all Improvements made within the Existing Space and the Expansion Space, as provided in Section 17 of the Lease.

**5. Selection of Contractor**

The contractor engaged by Tenant for the construction of the Improvements (the “**Contractor**”) shall either be selected by Tenant from Landlord’s approved list of contractors for construction in the Building, or shall be such other contractor as may be approved in advance by Landlord. If Tenant wishes to engage any additional contractor other than Contractor to carry out any work associated with the Improvements, any such engagement shall be subject to Landlord’s prior written approval. If requested by Landlord to do so, Contractor shall obtain a payment and performance bond issued by a surety company satisfactory to Landlord and naming Landlord, and any mortgagee of Landlord, as additional obligees.

**6. Improvement Allowance**

- a. Landlord shall reimburse Tenant for Tenant’s Costs incurred in connection with the construction of the Improvements up to, but not exceeding, the amount of the Improvement Allowance, less the amount of the Construction Fee, in accordance with the terms of this Improvement Allowance Section. Additionally, any Improvement Costs incurred by Landlord shall be deducted from the Improvement Allowance, and applied by Landlord to pay such Improvement Costs as such costs are incurred. The Improvement Allowance shall remain



available to be used by Tenant through the Allowance Expiration Date. Any portion of the Improvement Allowance remaining unused after the Allowance Expiration Date shall be retained by Landlord. In the event the Improvement Costs exceed the amount of the Improvement Allowance, Tenant shall be responsible for timely payment of the entire overage. In no event shall Landlord be obligated to expend more than the Improvement Allowance.

- b. After Substantial Completion of the Improvements has occurred, and the final amount of the Improvement Costs has been determined, if the Improvement Costs are less than the Improvement Allowance, then any unused portion of the Improvement Allowance, not exceeding twenty-five percent (25%) of the Improvement Allowance, shall constitute a credit (the "Credit") that may be used by Tenant as a reimbursement for Tenant's costs incurred in purchasing furniture, fixtures or equipment ("FF&E") for the Expansion Space or the Existing Space or in connection with costs incurred by Tenant in moving into the Expansion Space. Any requested reimbursement for such costs shall be made by Landlord within thirty (30) days following Landlord's receipt of documentation reasonably acceptable to Landlord reflecting the amount of such costs incurred by Tenant, provided that such documentation is received by Landlord prior to the Allowance Expiration Date.
- c. No later than thirty (30) days after Landlord's receipt of the Certificate of Occupancy, and all other documents required under this paragraph, Landlord shall reimburse Tenant for Tenant's Costs incurred in designing and constructing the Improvements, in an amount up to but not exceeding the Improvement Allowance less the amount of the Construction Fee; provided, however, that such costs may be paid by Landlord directly to the Architect, the Contractor or any other party if so directed by Tenant. Unless waived by Landlord in writing, no final reimbursement of Tenant's Costs will be made until the following documents have been received by Landlord:
  - i. a copy of the final Certificate of Occupancy for the Premises, or such other certificate of occupancy as will permit Tenant to occupy and use the Premises;
  - ii. an AIA-approved completion certificate executed by Contractor, and an AIA-approved application for payment executed by the Architect, both in form and substance reasonably satisfactory to Landlord, or substitutes for such documents that are reasonably acceptable to Landlord;
  - iii. an affidavit or certificate executed by the Architect, the Contractor and Tenant that the Improvements are complete and constructed in accordance with the Final Plans;
  - iv. a final contractor's affidavit from Contractor, in a form reasonably satisfactory to Landlord, satisfying the requirements of the laws of the state in which the Building is located in order to extinguish all lien rights in connection with the design and construction of the Improvements;
  - v. final lien waivers from the Architect and all subcontractors, materialmen, and engineers providing goods or services in connection with the design and construction of the Improvements;
  - vi. Material Safety Data Sheets for all materials used in the construction of the Improvements;
  - vii. certified air balance reports from the HVAC contractor;
  - viii. written warranties and maintenance specifications for all components of the Improvements; and
  - ix. such other documents as may be reasonably requested by Landlord in order to demonstrate that the Improvements are complete; they have been constructed in accordance with the Final Plans and all applicable Laws; and any liens or potential liens that could be filed against the Building or any interest therein have been extinguished.
- d. Notwithstanding the foregoing, Tenant may submit requests for interim payments during the Construction Period, provided that such requests may not be made more frequently than every thirty (30) days (the "Interim Payments"). Landlord shall pay the Interim Payments, less a retainage of twenty percent (20%) of the amount requested (the "Retainage"), to Tenant within ten (10) business days after Landlord's receipt of (i) Tenant's request for payment in a form reasonably acceptable to Landlord evidencing to Landlord's reasonable satisfaction the portion of the Improvements completed through the date of such request and the portion of the Tenant's Costs incurred through the date of such request; (ii) interim lien waivers from the Architect, the Contractor and all subcontractors, materialmen and engineers in a form reasonably acceptable to Landlord and meeting the requirements of applicable law to extinguish all lien rights of such parties in connection with Improvements as completed through the effective date of such lien waivers; and (iii) documentation reasonably acceptable to

Landlord reflecting that Tenant has paid to the appropriate party the amount for which reimbursement is requested by Tenant. In no event shall the Interim Payments exceed the amount of the Improvement Allowance. Final reimbursement of the Improvement Allowance, including the aggregate of the Retainage, will be made in accordance with the provisions Section 6(b) of this Work Letter.

- e. After the Improvement Allowance has been expended by Landlord, the principal amount of the Improvement Allowance, together with interest thereon calculated at the rate of twelve percent (12%) per annum, compounded monthly, shall be amortized evenly over the Term, and so long as Tenant does not default in its monetary obligations under the Lease, and fail to cure such default within the applicable period of cure, if any, provided under this Lease, then the balance of the Improvement Allowance shall be reduced each month by the principal amount amortized each month, and upon Landlord's receipt of the final payment of Rent due during the initial Term of this Lease, Tenant shall have no liability to Landlord for the repayment of any portion of the Improvement Allowance or the interest that accrued and was amortized over the initial Term of this Lease. In the event of an uncured Default by Tenant under this Lease, then in addition to all of Landlord's other remedies available under this Lease, Tenant shall also be liable to Landlord for the entire unreduced principal balance of the Improvement Allowance remaining as of the date of default, and interest shall accrue at the Default Rate. Provided, however, that if Landlord elects to exercise its rights under Section 32 of this Lease to accelerate the entire amount of all rent and other charges due from Tenant for the balance of the Term (in accordance with the terms of such Section), and Landlord obtains a judgment for, or is paid by Tenant, the entire amount of such accelerated sum, then such judgment for or payment of such accelerated sum shall preclude a separate recovery by Landlord under the foregoing terms of this Section of the unreduced balance of the Improvement Allowance and any interest thereon.

*[End of Work Letter]*

**EXHIBIT A TO WORK LETTER**  
**CONSTRUCTION RULES AND REGULATIONS**

1. All construction personnel shall be respectful of all members of the University community. Any kind of disrespect verbal abuse, threatening statements, harassment, unwelcome comments or unwelcome interaction from any construction personnel toward any member of the University community is strictly prohibited, and shall constitute sufficient cause for the University to have permanently removed any specific individuals from the Centennial Campus. In addition, any contractor or contractor's representative who ignores or refuses to take immediate action to remediate any endangerment to the health and safety of the public or the University as solely determined by the Ground Lessor, shall be sufficient cause for the University to request removal of any specific individuals from Centennial Campus. Such action taken by the Ground Lessor shall not constitute ground for delay claim. Ground Lessor and Landlord will not be responsible for any delays caused to the Tenant Work due to any individual being removed from the project.
2. Contractor shall ensure that campus streets connecting to and adjacent to the project are protected from mud, sand, stone, litter, or debris in any form coming from the Premises. Contractor is prohibited from discharging any waste products from concrete trucks, from concrete coring work, or any other unsuitable construction materials or products into the storm sewer system. Contractor shall be charged the cost of clean-up of any such unauthorized discharge from the Premises. Should Contractor damage any campus streets, roads, walks, curbs, landscape, etc., Contractor shall promptly correct damage as directed by University.
3. Parking is extremely limited at the Centennial Campus. Parking of personal vehicles are not allowed on campus. Contractors must confine parking of company vehicles and storage of materials to those that can be accommodated within the limits of the Project. The Contractor is required to follow the Transportation Contractor Parking Policies found on the University's website. Contractor may purchase parking permits.
4. The Tenant and Tenant's contractors shall be aware of the University's concern with maintaining a clean and neat construction site. No construction materials shall be stored outside the Building. Contractor shall ensure that the Complex, Project and Building grounds are free from trash and litter generated by the Contractor. Should trash, litter or debris from the Premises migrate to any adjacent campus areas it shall be removed immediately.
5. Where equipment must cross walkways, landscaping areas, or ramps the contractor shall provide ¾" plywood sheets for protection of these areas.
6. Contractor shall not dump any construction debris, of any kind or type, on the campus. In the event construction debris is inadvertently or intentionally deposited on the campus, such debris shall be removed by the Contractor immediately. Should Contractor fail to remove debris within 24 hours after written notice from the Landlord, the Landlord shall cause the removal of the debris, and charge the cost of the removal to the Contractor.
7. The Contractor shall comply with the following requirements:
  - (i) Equipment utilized during the construction activity on a site must be operated and maintained in such a manner as to prevent the potential or actual pollution of the surface or ground waters. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be discharged on to the ground or into surface waters. Spent fluids or spills shall be disposed of, or shall be cleaned up to the extent practicable in a manner so as not to enter the waters, surface or ground storm sewers, or drains on private or public (State of N.C.) property and in accordance with applicable state and federal disposal regulations.
  - (ii) All wastes composed of construction materials shall be disposed of in accordance with North Carolina General Statutes, Chapter 130A, Article 9 – Solid Waste Management, and rules governing the disposal of solid waste (North Carolina Administrative Code Section 15A NCAC 13B).



## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (the "**Amendment**") is entered into as of this 1st day of January, 2019 (the "**Effective Date**"), by and between **WP PROPCO I, LLC**, a Delaware limited liability company (the "**Landlord**"), successor by purchase and assignment to Venture Center LLC ("**Venture Center**"); and **BANDWIDTH INC.**, a Delaware corporation, formerly known as Bandwidth.com, Inc. (the "**Tenant**").

WHEREAS, Landlord is the owner<sup>1</sup> of that certain office building located at 940 Main Campus Drive, Raleigh, North Carolina 27606, commonly known as Venture I (the "**Building**") of the complex commonly known as Venture Center, containing the Building and other buildings, including the building commonly known as Venture III (collectively, the "**Complex**"), which other buildings are owned by affiliates of Landlord;

WHEREAS, Venture Center, as prior owner of the Complex, leased premises to Tenant in both the Building and the Venture III building under a single lease agreement, which was assigned to Landlord as the owner of the Building and to an affiliate of Landlord ("**Landlord's Affiliate**"), as the owner of the Venture III building;

WHEREAS, pursuant to that certain Office Lease dated January 22, 2013 (the "**Original Lease**"), as amended by the Fifth Amendment to Lease dated September 26, 2016 (hereinafter referred to as the "**First Amendment**") and the Declaration of Lease Commencement dated April 27, 2017 (the "**Commencement Agreement**"; the Original Lease, the First Amendment and Commencement Agreement are collectively referred to as the "**Lease**"), premises located in the Building containing an aggregate of approximately 40,657 rentable square feet of space, which space is comprised of approximately 17,073 rentable square feet of space located on the Third Floor of the Building commonly known as Suite 300 (the "**Suite 300 Space**") and approximately 23,584 rentable square feet of space located on the Fourth Floor of the Building commonly known as Suite 400 (the "**Suite 400 Space**"; the Suite 300 Space and Suite 400 Space are collectively referred to herein as the "**Premises**") are leased to Tenant. A true and genuine copy of the Lease is attached hereto and incorporated herein as **Exhibits A-1, A-2 and A-3**;

WHEREAS, Landlord and Tenant desire to confirm that the Lease, as modified herein, represents the entire agreement between the parties regarding the lease of the Premises as of the Effective Date and to amend the Lease regarding terms affecting the Premises as set forth herein;

NOW THEREFORE, in consideration of the above premises, the parties agree as follows:

1. Definitions. Unless otherwise defined herein, the capitalized terms used in this Amendment shall have the same definitions set forth in the Lease.

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<sup>1</sup> For simplicity, Landlord is referred to herein as the "owner" of the Building; the parties acknowledge that Landlord is actually the subtenant under a ground lease from The Board of Trustees of the Endowment Fund of North Carolina State University, and Tenant is a sublessee of Landlord.

2. Effective Date. Unless otherwise set forth herein, the agreements contained herein shall be effective as of the Effective Date of this Amendment.
3. Basic Lease Provisions. Subsections A, B, C, D, E, F, G, H, I, J, K, N, O and Q of Section 1.01 of the Original Lease are hereby deleted from the Lease and replaced with the following:

Section 1.01 BASIC LEASE PROVISIONS:

A. Building and Address:

Venture I Building of Venture Center  
940 Main Campus Drive  
Raleigh, North Carolina 27606

B. Landlord and Landlord's Notice Addresses:

WP Propco I, LLC  
Attention: General Counsel  
800 N. Magnolia Avenue, Suite 1625  
Orlando, Florida 32803

*with copies to:*

PKY Manager NC, LLC  
Attn: Managing Director  
1372 Peachtree Street  
Atlanta, GA 30309

*and:*

PKY Manager NC, LLC  
Attn: Senior Property Manager, Venture Center  
1730 Varsity Drive, Suite 115  
Raleigh, NC 27607

C. Rental Payment Address:

*Lockbox Mailing Address:*

WP PropCo I, LLC  
PO Box 603812  
Charlotte, NC 28260-3812

*[Payment address continues on next page]*

4. Identification of Exhibits. The floor plan attached as Exhibit A to the Original Lease is hereby deleted and replaced with the floor plan of the Premises attached to this Amendment as **Exhibit B** and the legal description attached as Exhibit A-1 to the Original Lease is hereby deleted in its entirety and replaced with the legal description of the Building attached to this Amendment as **Exhibit C**.
5. Renewal Options. Tenant shall have the following options to further extend the Lease:
- (a) *Grant of Renewal Options.* So long as the Lease is in full force and effect; no Event of Default has occurred during the twelve (12) month period prior to Landlord's receipt of the Preliminary Notice, defined below; and no Event of Default exists, at the time of the exercise of either of the options set forth herein, Tenant is hereby granted two successive options (the "**First Renewal Option**" and the "**Second Renewal Option**"; individually, a "**Renewal Option**," and collectively, the "**Renewal Options**") to extend the Term of this Lease as follows: (1) for one (1) additional period of eighteen (18) months and nineteen (19) days (the "**First Renewal Term**"), to commence on the date following the Expiration Date of Lease Term and expire on January 31, 2024; and (2) for one (1) additional period of five (5) years (the "**Second Renewal Term**"; the First Renewal Term and Second Renewal Term are individually referred to herein as a "**Renewal Term**," and collectively as the "**Renewal Terms**"), to commence at the expiration of the First Renewal Term. The extension of this Lease shall be upon the same terms and conditions of the Lease, except: (i) the Monthly Base Rent and adjustments to Monthly Base Rent applicable during the Renewal Terms shall be determined as set forth below; (ii) Tenant shall have no option to extend this Lease beyond the expiration of the Second Renewal Term; (iii) Tenant shall not have the right to assign its extension rights to any subtenant of the Premises or assignee of the Lease, nor may any such subtenant or assignee exercise or enjoy the benefit of the Renewal Options; and (iv) the leasehold improvements will be provided in their then existing condition at the time such Renewal Term commences.
- (b) *Preliminary Notice.* If Tenant intends to exercise the First Renewal Option, Tenant shall provide Landlord with written notice, in accordance with the Notices provision of this Lease (the "**Preliminary Notice**"), of such intention no later than January 1, 2021. If, for whatever reason, Tenant does not provide Preliminary Notice to Landlord, in accordance with the terms of this paragraph, that Tenant intends to exercise the First Renewal Option, then the Renewal Options set forth herein shall expire, and Tenant shall not thereafter have any right to exercise either of the Renewal Options or otherwise acquire an interest in the Premises after the Expiration Date of Lease Term. In the event that Tenant exercises the First Renewal Option, and Tenant intends to exercise the Second Renewal Option, Tenant shall provide Landlord with Preliminary Notice of such intention at least twelve (12) months, but no earlier than eighteen (18) months, prior to the expiration of the First Renewal Term. If, for whatever reason, after exercising the First Renewal Option, Tenant does not provide Preliminary Notice to Landlord that Tenant intends to exercise the Second Renewal Option, then the Second Renewal Option shall expire, and Tenant shall not thereafter have any right to exercise the Second Renewal



Option or otherwise acquire an interest in the Premises after the expiration of the First Renewal Term.

- (c) *Rental Applicable During Renewal Terms.* Within thirty (30) days after Landlord's receipt of a Preliminary Notice from Tenant, Landlord shall provide Tenant with written notice (the "**Rent Notice**") of the Monthly Base Rent, and the Base Year that will be used for purposes of determining the adjustments to Monthly Base Rent, that will be applicable during the Renewal Term to which such Preliminary Notice applies (collectively, the "**Renewal Term Rent**"). The Renewal Term Rent shall be determined by Landlord, and shall be the greater of (i) the rental rate in effect for the premises leased by Tenant in Venture III as of the commencement of the applicable Renewal Term and (ii) Landlord's good faith determination of the market rental rate for the Premises as of the commencement of the applicable Renewal Term, taking into consideration such factors as rental for comparable premises in the Building and in other buildings in the Complex; the applicable base year; rental for comparable premises in existing buildings in the same geographical area as the Building (taking into consideration, but not limited to, use, quality, age and location of the applicable building); the rentable area of the premises being leased; the length of the pertinent rental term; the quality and creditworthiness of the tenant, and such other factors as Landlord may reasonably determine are relevant.
- (d) *Renewal Notice.* If, after review of Landlord's determination of the Renewal Term Rent, Tenant elects to exercise the Renewal Option to which such rate applies, then, no later than fifteen (15) days after Tenant's receipt of Landlord's Rent Notice, Tenant shall provide written notice of such election (the "**Renewal Notice**") to Landlord in accordance with the Notices provision of the Lease, as amended herein. Tenant shall, within thirty (30) days after presentation by Landlord, execute an amendment to this Lease, which amendment shall reflect the extension of the Term of the Lease through the expiration of such Renewal Term, and the Renewal Term Rent applicable to such Renewal Term (including the specification of the Monthly Base Rent and the Base Year that will be applicable during such Renewal Term). If, after providing Landlord with a Preliminary Notice, Tenant does not, for whatever reason, provide Landlord with the Renewal Notice required hereunder in order to exercise the applicable Renewal Option, then such Renewal Option shall expire; Tenant's Preliminary Notice exercising such Renewal Option shall be of no further force or effect; and it shall be as if the Preliminary Notice had never been provided by Tenant to Landlord. If, however, after Tenant provides a Renewal Notice to Landlord, Tenant fails to execute the amendment to the Lease as required by the terms of this paragraph, then the Term of the Lease shall nonetheless be extended in accordance with the terms of the applicable Renewal Option.
- (e) *Renewal Options Personal to Tenant.* The parties expressly agree that the Renewal Options granted to Tenant herein shall be "personal" to Tenant. The Renewal Options may only be exercised by Tenant; the Renewal Options may not be exercised by any assignee or subtenant of Tenant; and they may not be exercised



by Tenant if Tenant is, at the time that a Renewal Notice is provided by Tenant to Landlord, negotiating with Landlord or a potential assignee or subtenant to either assign the Tenant's interest under the Lease or to sublet all or a portion of the Premises.

6. After-Hours Services. Section 5.02 of the Original Lease, regarding after-hours HVAC and electricity services to the Premises, shall be modified by deleting the last sentence in this section and replacing it with the following:  
  
"Tenant may periodically request, and Landlord shall furnish electricity and HVAC services outside of operating hours for the Building, provided Tenant requests such service in accordance with Landlord's procedures in effect from time to time for requesting such service. For HVAC services provided to Tenant outside of Building Operating Hours, Tenant shall reimburse Landlord for this service at the then existing rate being charged in the Building for such services, which, as of the Effective Date hereof, is Fifty Dollars (\$50.00) per hour, per tenant, per floor; such rate shall be subject to adjustment if adjusted generally for tenants of the Building."
7. Security Deposit. The parties acknowledge that, as of the Effective Date, there are no funds held by Landlord under the Lease as security for Tenant's performance of the Lease.
8. Tenant Improvement Allowance. Section 27.17 of the Original Lease, being applicable to premises located in Venture III only, is hereby deleted from the Lease.
9. Cross default. The parties acknowledge and agree that, so long as an affiliate of Landlord owns or is the ground lessee of the Venture III building, an uncured default by Tenant under the Venture III Lease shall also constitute an Event of Default by Tenant under the Lease, as amended herein; and, an uncured Event of Default by Tenant under the Lease, as amended herein, shall constitute a default by Tenant under the Venture III Lease.
10. Ground Lease. The definition of "Ground Lease" referenced in Section 24.01 of the Original Lease is hereby deleted and replaced with the following: "Office Building Ground Lease Agreement dated January 1, 1998, by and between The Board of Trustees of the Endowment Fund of North Carolina State University, as ground lessor, and Davis-Sandler One LLC, as ground lessee, as amended, assigned or otherwise modified."
11. Lender Approval. This Amendment is contingent upon the approval of the lender whose security interest encumbers the Building as of the Effective Date hereof. Landlord shall exert commercially reasonable efforts to obtain such approval as soon as possible following the Effective Date.
12. Agency Disclosure. CB Richard Ellis-Raleigh LLC, ("**Landlord's Authorized Broker**") represents Landlord's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Landlord's Authorized Broker and Landlord prior to full execution of this Amendment. Landlord's Authorized Broker has not represented Tenant in this transaction. Tenant

warrants and represents that it has had no dealings with any broker in connection with the negotiation or execution of this Amendment other than Landlord's Authorized Broker. Except as expressly provided above, Landlord will not be responsible for, and Tenant will indemnify, defend, and hold Landlord harmless from and against, any brokerage or leasing commission or finder's fee claimed by any party in connection with this Amendment.

13. Lease in Effect. Except as modified herein, all terms and conditions of the Lease in effect as of the Effective Date hereof shall be and remain in full force and effect, and the same are hereby ratified and affirmed by Landlord and Tenant.

IN WITNESS WHEREOF, the undersigned have sealed and executed this Amendment as of the Effective Date stated above.

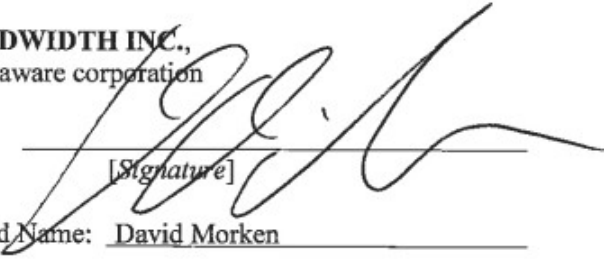
**"LANDLORD":**

**WP PROPCO I, LLC,**  
a Delaware limited liability company

By:   
Kate Urey, Managing Director

**"TENANT":**

**BANDWIDTH INC.,**  
a Delaware corporation

By:   
[Signature]

Typed Name: David Morken

Title: CEO

Attest:   
[Signature]

Typed Name: W. Christopher Matton

Title: Secretary  
[Corporate Secretary or Assistant Secretary]

[CORPORATE SEAL]

**EXHIBIT A-1 ORIGINAL LEASE  
EXHIBIT A-2 FIRST AMENDMENT  
EXHIBIT A-3 COMMENCEMENT AGREEMENT**

*[Please add Exhibits A-1, A-2 and A-3 prior to execution]*



OFFICE LEASE

1. BASIC LEASE PROVISIONS AND IDENTIFICATION OF EXHIBITS

1.01 BASIC LEASE PROVISIONS

A. BUILDING AND ADDRESS:

Venture III Building of the Venture Center  
900 Main Campus Drive  
Raleigh, North Carolina 27606

B. LANDLORD AND LANDLORD'S NOTICE ADDRESS:

Venture Center LLC, a Delaware limited liability company  
c/o Heitman Capital Management LLC  
191 North Wacker Drive, Suite 2500  
Chicago, Illinois 60606  
Attention: Dwight P. Fawcett

With a copy to:

Moore & Van Allen, PLLC  
100 North Tryon St., Suite 4700  
Charlotte, NC 28202-4003  
Attn: Evan Bass

C. RENTAL PAYMENT ADDRESS:

Venture Center LLC  
Lockbox #601977  
P.O. Box 601977  
Charlotte, NC 28262-1977

Wiring Instructions:

Bank: Wachovia Bank  
ABA#: 053000219  
Account#: 2000027351895

D. DATE OF LEASE: January 28, 2013

E. LEASE TERM: Twenty-five (25) months with respect to the Second Floor Space (hereinafter defined) and twenty-one (21) months with respect to the Third Floor Space (hereinafter defined). Tenant has two (2) options to extend the Initial Term (hereinafter defined) for a period of three (3) years each.

F. COMMENCEMENT DATE OF LEASE TERM: February 1, 2015 with respect to the Second Floor Space and June 1, 2015 with respect to the Third Floor Space.

G. EXPIRATION DATE OF LEASE TERM: February 28, 2017.

H. MONTHLY BASE RENT: Monthly Base Rent shall be as follows:

Monthly Base Rent	Portion of Initial Term	Rate
\$16,260.50	02/01/15 – 5/31/15	\$25.50
\$27,797.13	06/01/15 – 01/31/16	\$25.50
\$28,631.04	02/01/16 – 01/31/17	\$26.27
\$29,489.97	02/01/17 – 02/28/17	\$27.05

- I. RENTABLE AREA OF THE PREMISES: Approximately 7,652 rentable square feet on the second floor of the Building (the "Second Floor Space") and approximately 5,429 rentable square feet on the third floor of the Building (the "Third Floor Space").
- J. SECURITY DEPOSIT: \$27,797.13.
- K. FLOORS and SUITES: Floors 2 and 3, Suites 267 and 317.
- L. TENANT'S BROKER: Synergy Commercial Advisors, LLC  
LANDLORD'S BROKER: Craig Davis Properties
- M. OPERATING COST BASE: To be determined pursuant to the provisions of Section 4.01F hereof.
- N. BASE YEAR: 2015.
- O. RENTABLE SQUARE FOOTAGE OF THE BUILDING: 119,812
- P. TENANT AND CURRENT NOTICE ADDRESS:  
  
Bandwidth.com, Inc., a Delaware corporation  
Venture Center III – Fifth Floor  
900 Main Campus Drive  
Raleigh, NC 27606  
Attention: Chief Executive Officer  
  
With a copy to:  
  
Bandwidth.com, Inc., a Delaware corporation  
Venture Center III – Fifth Floor  
900 Main Campus Drive  
Raleigh, NC 27606  
Attention: General Counsel
- Q. LANDLORD'S PROPERTY MANAGER: Spectrum Properties Management Company ("Manager")

IDENTIFICATION OF EXHIBITS:

The exhibits set forth below and attached to this Lease are incorporated herein by this reference:

- EXHIBIT A - Floor Plan of Premises
- EXHIBIT A-1 - Legal Description of the Land on which the Building is Located
- EXHIBIT B - Rules and Regulations
- EXHIBIT C - Intentionally Omitted
- EXHIBIT D - Cleaning Specifications
- EXHIBIT E - List of Building Holidays

2. PREMISES AND LEASE TERM

2.01 LEASE OF PREMISES

Pursuant to this Office Lease (this "Lease"), Landlord leases to Tenant and Tenant leases from Landlord the premises (the "Premises") depicted on Exhibit A attached hereto and incorporated herein by this reference. The Premises is contained in the office building (the "Building") located at the address stated in Section 1.01A hereof, which Building is part of an

office building complex known by the name given in Section 1.01A hereof. For purposes of this Lease, "Complex" shall collectively mean all land, buildings and improvements forming a part of the Venture Center, including but not limited to the Common Areas, Building, Venture I building, Venture II building, Venture IV building, Venture Place building and all associated land, improvements, infrastructure and parking structures. The Building is located on the real property described on Exhibit A-1 attached hereto and incorporated herein by this reference. The Premises is as shown on Exhibit A attached hereto and contains the Rentable Area as stated in Section 1.01I hereof.

## 2.02 LEASE TERM

A. The initial term of this Lease (the "Initial Term") shall commence, with respect to the Second Floor Space, on February 1, 2015 and shall commence, with respect to the Third Floor Space, on June 1, 2015. The Initial Term for the entire Premises shall expire on February 28, 2017 (the "Expiration Date"). As used in this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period of the Lease Term (hereinafter defined), or any extension or renewal thereof, beginning on February 1, 2015 and each anniversary thereof. Landlord and Tenant stipulate and agree that Tenant is in possession of the Premises as of the date hereof under a sublease agreement.

B. Provided that (i) this Lease is still in full force and effect, (ii) Tenant is not then in default under this Lease, (iii) Tenant has not been delinquent with its rent payment two (2) or more time(s) during the Lease Term, and (iv) the named Tenant herein has not, after the date hereof, assigned its rights under the Lease or sublet any portion of the Premises, Tenant shall be entitled to extend the Initial Term for two (2) consecutive three (3) year periods (each an "Extension Term" and collectively with the Initial Term, the "Lease Term") upon all the same terms and conditions as set forth herein, and Tenant shall not be entitled to any additional upfitting allowance (Tenant agreeing to continue to occupy the Premises in its "as is where is" condition). Tenant must give Landlord written notice (each an "Extension Notice") of Tenant's election to extend the Initial Term at least six (6) months prior to the expiration of the then current Initial Term or Extension Term, as applicable. If Tenant fails to timely exercise its first or second option to extend the Initial Term, any subsequent option(s) to extend the Initial Term shall automatically terminate and shall be null and void. Monthly Base Rent for each Extension Term shall be as specified in Section 3.02 below.

## 3. RENT

### 3.01 INITIAL TERM

Tenant agrees to pay to Landlord at the address provided in Section 1.01C, or at such other place designated by Landlord, without any prior notice or demand and without any deduction or setoff whatsoever, base rent at the initial monthly rate stated in Section 1.01H hereof ("Monthly Base Rent"). Monthly Base Rent is subject to adjustment pursuant to Section 4.02 hereof, and, as adjusted, is called "Adjusted Monthly Base Rent". Monthly Base Rent and Adjusted Monthly Base Rent shall be paid monthly in advance on the first day of each month of the Lease Term. Rent shall be deemed paid when actually received by Landlord. Monthly Base Rent and, if applicable, Adjusted Monthly Base Rent shall be prorated for partial months within the Lease Term. All charges, costs and sums required to be paid by Tenant to Landlord under this Lease in addition to Adjusted Monthly Base Rent shall be considered "Additional Rent", and Monthly Base Rent or Adjusted Monthly Base Rent, as applicable, and Additional Rent shall be collectively called "Rent". Tenant's covenant to pay Rent shall be independent of every other covenant in this Lease. If Tenant shall fail to pay any monthly installment of Rent by the fifth (5<sup>th</sup>) day of the month when due, Tenant shall pay to Landlord a late fee equal to ten percent (10%) of the Rent then due and payable; provided, however, Landlord shall waive late fees due Landlord one (1) time in any twelve (12) month period if Tenant pays any Rent due within five (5) days immediately after oral or written notice from Landlord.

### 3.02 EXTENSION TERM

Monthly Base Rent for each Extension Term shall be equal to the prevailing Market Rate (hereinafter defined) for the Premises as of the date the extension option is exercised, provided that, notwithstanding anything else to the contrary contained herein, the Monthly Base Rent for

each Extension Term shall not be less than one hundred percent (100%) of the Monthly Base Rent in effect at the end of the then expiring Initial Term or Extension Term, as applicable. The prevailing "Market Rate" shall be based upon space of comparable age, size and quality in comparable office buildings in the Centennial Campus of North Carolina State University which has been leased, on an arms-length basis, to tenants of similar financial standing during the immediately preceding six (6) months (or such longer period of time as is necessary to account for abnormal market conditions, as determined by Landlord), taking into account the same leasehold improvement allowances, leasing commissions, free rent and other concessions as would be applicable to the Extension Term, if any. Within twenty (20) business days following Landlord's receipt of the Extension Notice, Landlord shall provide Tenant with written notice of its determination of the prevailing Market Rate for the applicable Extension Term (the "Prevailing Market Rate Notice"). If Landlord and Tenant do not agree in writing on the prevailing Market Rate within the longer of (i) twenty (20) days following Tenant's receipt of the Prevailing Market Rate Notice or (ii) such period of time as Landlord and Tenant are actively negotiating in good faith the Market Rate, the Extension Notice shall automatically be deemed rescinded and of no further force and effect, and thereafter this Lease shall expire as if Tenant had never exercised its extension option.

#### 4. ADJUSTMENTS TO MONTHLY BASE RENT

##### 4.01 DEFINITIONS

For the purposes of this Article 4, the following words and phrases shall have the following meanings:

A. "Taxes" shall mean all federal, state and local governmental taxes, assessments and charges (including transit or district taxes or assessments) of every kind or nature, whether general, special, ordinary or extraordinary, which Landlord shall pay or become obligated to pay because of or in connection with the ownership, leasing, management, control or operation of the improvements and land comprising the Complex, or of the personal property, fixtures, machinery, equipment systems and apparatus located therein or used in connection therewith (including any rental or similar taxes levied in lieu of or in addition to general real and/or personal property taxes). For purposes hereof, Taxes for any year shall be Taxes which are due for payment or paid in that year, rather than Taxes which are assessed or become a lien during such year. There shall be included in Taxes for any year the amount of all fees, costs and expenses (including reasonable attorneys' fees) paid by Landlord during such year in seeking or obtaining any refund or reduction of Taxes. Taxes in any year, including the Base Year, shall be reduced by the net amount of any tax refund received by Landlord with regards to such year. If a special assessment payable in installments is levied against the Complex, Taxes for any year shall include only the installment of such assessment and any interest payable or paid during such year. Taxes shall not include any federal, state or local sales, use, franchise, capital stock, inheritance, general income, gift or estate taxes, except that if a change occurs in the method of taxation resulting in whole or in part in the substitution of any such taxes, or any other assessment, for any Taxes as above defined, such substituted taxes or assessments shall be included in the Taxes.

B. "Adjustment Year" shall mean each calendar or partial calendar year during the Lease Term.

C. "Base Year" shall mean the year stated in Section 1.01N hereof.

D. "Operating Cost Adjustment" shall mean the dollar increase, if any, of the actual Operating Costs over the Operating Cost Base paid or incurred by Landlord in the applicable calendar year; provided, however, any Operating Cost Adjustment attributable to an increase in controllable expenses will not exceed eight percent (8%) annually, computed on a cumulative and compounding basis. Controllable expenses shall not include those portions of Landlord's Operating Costs which are not reasonably within Landlord's control, including without limitation utilities, taxes, insurance, and snow removal.

E. "Operating Costs" shall mean all costs, expenses and disbursements of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection



with the ownership, maintenance and operation of the Complex, including but not limited to, the following:

(i) Wages, salaries (below the level of officers or executives) and related expenses (including, without limitation, benefits) of all on-site and off-site personnel engaged in the operation, maintenance and access control of the Complex, and all costs of a property management office in the Complex (including, without limitation, rent costs).

(ii) Cost of all supplies, tools, equipment and materials, whether purchased or leased, used in the operation and maintenance of the Complex.

(iii) Cost of utilities for the Complex, including but not limited to, water, steam, sewer, gas and electricity, and power for heating, lighting, air conditioning and ventilating the Complex, but excluding suite electricity for all premises in the Complex paid for separately by the occupant thereof.

(iv) Cost of all maintenance and service agreements for the Complex and the equipment therein, including but not limited to, access control service, window cleaning, janitorial service, landscape maintenance, and elevator maintenance.

(v) Legal and accounting costs of Landlord, including a reasonable allocation of off-site costs, together with the costs of annual audits of the Complex operating costs by certified public accountants.

(vi) Cost of all insurance, including but not limited to, fire, casualty, liability and rental abatement insurance applicable to the Complex and Landlord's personal property used in connection therewith, plus the cost of all deductible payments made by Landlord in connection therewith.

(vii) Cost of repairs, replacements and general maintenance (excluding repairs, replacements and general maintenance paid for with proceeds of insurance or condemnation).

(viii) Any and all common area maintenance costs related to public areas, including sidewalks and landscaping on the Complex.

(ix) Amortization of the cost, together with reasonable financing charges, of furnishing and installing capital investment items which (a) are primarily for the purpose of (i) reducing Operating Costs, or (ii) promoting safety, or (b) may be required by any governmental authority. All such costs shall be amortized over the useful life of the capital investment items with the useful life and amortization schedule being determined in accordance with generally accepted accounting principles (in no event to extend beyond the remaining useful life of the Complex).

(x) Costs of licenses, permits and inspection fees related to the Complex.

(xi) A management fee equal to four percent (4%) of the sum of all rents and charges payable by tenants of the Complex pursuant to their respective leases.

(xii) All fixed and additional rents or charges payable with respect to the Ground Lease (hereinafter defined); for informational purposes only, and not as a limitation, covenant or warranty, the base rent payable under the Ground Lease as of the date hereof increases in January of 2014 and every five (5) years thereafter.

Operating Costs shall not include the following:

(i) intentionally omitted;

(ii) capital expenditures required by Landlord's failure to comply with laws enacted on or before the date the Building's temporary certificate of occupancy or the equivalent is validly issued; provided, however, the capital expenditures incurred by Landlord and required by laws enacted after the date the Building's temporary certificate



of occupancy or the equivalent is validly issued shall be amortized over the useful life of such capital expenditures, such amortization amount to be considered an Operating Cost;

(iii) costs incurred by Landlord for the repair of damage to the Complex, to the extent the Landlord is reimbursed by insurance proceeds (or would have been reimbursed by insurance if Landlord carried the insurance required by this Lease);

(iv) any costs associated with leasing, marketing or promoting space in the Complex. Such costs should include tenant improvements, advertising, lease commissions, legal fees to negotiate the lease, space planning, marketing material, signs in or on the Complex identifying the owner of the Building and/or Complex or other tenants' signs individually (except any monument or other signs that identify multiple tenants, including Tenant);

(v) interest, principal, points and fees on debts or amortization on any mortgage or mortgages or any other debt instrument encumbering the Building and/or the Complex or the property on which the Building and/or the Complex stands, including any interest or penalties incurred as a result of Landlord's failure to pay any costs as the same become due;

(vi) Landlord's general corporate overhead and general and administrative expenses, other than charges for property management and in-house labor provided for maintenance of the Building and/or the Complex;

(vii) electric power costs for which any tenant directly contracts with the local public service company;

(viii) costs incurred in connection with upgrading the Building and/or the Complex to comply with handicap, life, fire and safety codes in effect prior to the date the final certificate of occupancy for the Building is issued;

(ix) tax penalties incurred as a result of Landlord's failure to make payments and/or to file any tax or informational returns when due;

(x) costs arising from Landlord's charitable or political contributions;

(xi) costs arising from earthquake insurance to the extent coverage exceed the coverage carried by landlord of other buildings comparable to the Building and/or the Complex;

(xii) federal and state income and franchise taxes of Landlord or any other such taxes not in the nature of real estate taxes, except taxes on rent which shall be paid directly by Tenant or included in Operating Costs;

(xiii) costs of selling, financing, syndicating or hypothecating the interest of Landlord in the Building and/or the Complex;

(xiv) legal and other costs associated with the mortgaging, refinancing or sale of the Building and/or the Complex or any interest therein;

(xv) any costs and expenses related to or incurred in connection with disputes with tenants of the Building and/or the Complex or any lender for the Building and/or the Complex;

(xvi) any bad debt loss, rent loss, or reserves for bad debts or rent loss, or any other reserve for anticipated future expenses;

(xvii) salaries, wages or other compensation paid to officers or executives of Landlord above the level of property manager in their respective capacities;

(xviii) any item of cost which is includable in Landlord's Operating Costs, but which represents an amount paid to an affiliate of Landlord or an affiliate of any partner or shareholder of Landlord, to the extent the same is in excess of the fair market value of such item or service;

(xix) rentals for items (except when needed in connection with normal repairs and maintenance) which if purchased, rather than rented, would constitute a capital expense that is excluded from Operating Costs (excluding, however, equipment not affixed to the Building and/or the Complex which is used in providing janitorial or similar services); costs, including permit, license and inspection costs, incurred with respect to the installation of tenants or other occupants' improvements in the Building and/or the Complex or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Building and/or the Complex;

(xx) the cost of any electric power used by a tenant in the Building and/or the Complex for which any tenant directly contracts with the local public service company or of which any tenant is separately metered or submetered and pays Landlord directly; provided, however, that if any tenant in the Building and/or the Complex contracts directly for electric power service or is separately metered or submetered during any portion of the relevant period, the total electric power costs for the Building and/or the Complex shall be "grossed up" to reflect what those costs would have been had each tenant in the Building and/or the Complex used the Building-standard amount of electric power;

(xxi) costs arising from the negligence or intentional misconduct of other tenants or Landlord or its agents, or any vendors, contractors or providers of materials or services selected, hired or engaged by Landlord or its agents, including, without limitation, the selection of building materials, provided Landlord shall have the right to include insurance deductibles in Operating Costs;

(xxii) depreciation, amortization and interest payments, except as provided herein and except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party's services, all as determined in accordance with generally accepted accounting principles, consistently applied, and when depreciation or amortization is permitted or required, the items shall be amortized over its reasonably anticipated useful life according to generally accepted accounting practices;

(xxiii) expenses in connection with services or other benefits which are not offered to Tenant for which Tenant is charged for directly but which are provided to another tenant or occupant of the Building and/or the Complex free of charge;

(xxiv) costs incurred by Landlord due to the violation by Landlord or any tenant other than Tenant of the terms and conditions of any lease of space in the Building and/or the Complex, provided Landlord shall have the right to include insurance deductibles in Operating Costs;

(xxv) costs incurred in connection with upgrading the Building and/or the Complex to comply with disability, life, fire and safety codes, ordinances, statutes or other laws in effect prior to the commencement of the Initial Term, based on the standards, requirements and interpretations thereof in effect on the commencement of the Initial Term, including, without limitation, the ADA, including penalties or damages incurred due to such non-compliance for which Landlord is liable and responsible under the Lease;

(xxvi) notwithstanding any contrary provision of the Lease, including, without limitation, any provision relating to capital expenditures, any and all costs arising from the presence of hazardous materials or substances (as defined by applicable laws in effect on the date the Lease is executed) in or about the Premises, the Building or the Complex, including, without limitation, hazardous substances in the ground water or soil, for which Landlord is liable and responsible under this Lease; and

(xxvii) costs for sculpture, paintings or other objects of art.

F. "Operating Cost Base" shall mean the actual Operating Costs paid or incurred by Landlord in the Base Year, a statement of which Operating Cost Base shall be delivered by Landlord to Tenant within a reasonable time after the end of the Base Year. The Operating Cost Base when and as determined by Landlord shall be used to determine the Operating Cost Adjustment for calendar years following the Base Year.

G. "Tenant's Percentage Share" shall mean that percentage found by dividing the Rentable Area of the Premises by the Rentable Area of office space in the Complex.

H. "Base Year Taxes" shall mean the Taxes for the Base Year.

I. "Tax Adjustment" the dollar increase, if any, of the actual Taxes paid or incurred by Landlord in the applicable calendar year over the Base Year Taxes.

#### 4.02 ADJUSTMENTS TO MONTHLY BASE RENT

A. Tenant shall pay to Landlord, as additional rental, Tenant's Percentage Share of (i) the Operating Cost Adjustment, and (ii) the Tax Adjustment, in the respective calendar year (after the Base Year) in the manner and at the times herein provided.

B. Prior to the commencement of each calendar year subsequent to the Base Year, or as soon thereafter as practicable, Landlord shall give Tenant notice of Landlord's estimate of Tenant's Percentage Share of the Operating Cost Adjustment and Tax Adjustment for the ensuing calendar year. On or before the first day of each month during the ensuing calendar year, Tenant shall pay to Landlord one-twelfth (1/12<sup>th</sup>) of such estimated amounts, provided that until such notice is given with respect to the ensuing calendar year, Tenant shall continue to pay the amount currently payable pursuant hereto until after the month such notice is given. . If at any time or times it appears to Landlord that Tenant's Percentage Share of the Operating Cost Adjustment and/or the Tax Adjustment for the then current calendar year will vary from Landlord's estimate by more than five percent (5%), Landlord may, by notice to Tenant, revise its estimate for such year and subsequent payments by Tenant for such year shall be based on such revised estimate. The amounts payable by Tenant pursuant to this Section 4.02 (the Operating Cost Adjustment and Tax Adjustment), together with the Monthly Base Rent is herein referred to as the Adjusted Monthly Base Rent. Notwithstanding any provision hereof to the contrary, in no event shall the Operating Cost Adjustment or Tax Adjustment be less than zero.

C. Landlord, within one hundred twenty (120) days following the end of each calendar year (or portion thereof) during the term of this Lease, shall determine the actual Operating Cost Adjustment and Tax Adjustment during such calendar year. If Tenant shall have underpaid Landlord, Tenant shall pay the difference to Landlord within thirty (30) days of receipt of an invoice therefor, accompanied by a copy of a statement of the Operating Cost Adjustment and Tax Adjustment for the calendar year. If Tenant shall have overpaid Landlord, Landlord shall, within thirty (30) days of sending the annual statement, credit the difference against the Monthly Base Rent next coming due. The provisions of this Section 4.02.C shall survive the expiration or earlier termination of this Lease.

#### 4.03 PARTIAL OCCUPANCY

For purposes of determining adjustments to installments of Adjusted Monthly Base Rent for any Adjustment Year, inclusive of the Operating Cost Base, in which the occupancy of the net rentable area of the Complex averages less than ninety-five percent (95%), the amount of those Operating Costs for such Adjustment Year that are variable by occupancy shall be increased to the amount that would have been payable had there been ninety-five percent (95%) occupancy in the Complex during such Adjustment Year. Notwithstanding the foregoing, in no event shall the adjustments in Operating Expenses as hereinabove described result in a profit to Landlord.

#### 4.04 NO DECREASES IN MONTHLY BASE RENT

Notwithstanding anything to the contrary contained in this Lease, Monthly Base Rent shall not be adjusted or decreased below the amount set forth in Section 1.01H of this Lease.

#### 4.05 AUDIT

Tenant shall have the right to audit Operating Costs and Taxes provided such audit is conducted pursuant to the following terms and conditions: (a) Tenant shall not conduct an audit if Tenant is in default of its obligations under this Lease beyond the expiration of any applicable notice and cure period; (b) Tenant shall not conduct an audit unless the Operating Cost Adjustment or Tax Adjustment has increased by more than five percent (5%) over the previous year; (c) such audit must be conducted by Tenant's employees or a reputable accounting firm that is not being compensated by Tenant, Tenant's guarantors (if any), its officers, directors, shareholders, partners or agents on a contingency fee basis; (d) such audit must be commenced within one (1) year after Landlord submits to Tenant the end-of-year statement described in Section 4.02(c) above and once commenced, such audit shall be completed in a diligent and expeditious manner; (e) Tenant shall supply Landlord with a copy of the result of the audit within fifteen (15) days after Tenant's receipt of the same; (f) no audit shall be conducted if Tenant has previously conducted an audit for the same period of time; (g) such audit shall be conducted during normal business hours, at a mutually agreed upon time, at Landlord's business address or at such other location within the continental U.S. as Landlord normally keeps its books and records of Operating Costs and Taxes; (h) such audit shall be at Tenant's sole cost and expense and any costs or expenses incurred by Landlord in providing Tenant with the information required to perform such audit, including, but not limited to, copying costs and delivery fees, shall be paid by Tenant to Landlord within thirty (30) days after demand; provided, however, that Landlord shall reimburse Tenant for its actual and reasonable out-of-pocket costs of conducting such audit if it is determined pursuant to such audit that Landlord has overstated the actual amount of the Operating Cost Adjustment or Tax Adjustment and/or Tenant's Percentage Share for the applicable year by in excess of five percent (5%); (i) any information obtained by Tenant as a result of such audit shall be held in strict confidence by Tenant and shall not be disseminated further except to Tenant's accountants, attorneys and lenders, or in connection with the enforcement by Tenant of its rights under this Lease or as otherwise required by law; (j) no subtenant shall have any right to conduct an audit and no assignee shall conduct an audit for any period during which assignee was not in possession of the Premises; and (k) if it is determined pursuant to such audit that there has been an overpayment or underpayment of the Operating Cost Adjustment or Tax Adjustment, the parties shall promptly make such reconciliation payments and/or refunds as are appropriate. Further, notwithstanding the fact that Tenant has elected to conduct such audit, Tenant shall not have the right to withhold or offset any part of Tenant's Percentage Share of the Operating Cost Adjustment or Tax Adjustment, which Tenant shall pay to Landlord as and when due and payable in accordance with the terms of this Lease.

### 5. SERVICES

#### 5.01 LANDLORD'S GENERAL SERVICES

A. Subject to reimbursement in accordance with Article 4 hereof, Landlord shall provide the following services:

(1) Central heat and air conditioning ("HVAC") in season, subject to curtailment as required by legal requirements. Landlord shall furnish such service to Tenant between the hours of 8:00 A.M. and 6:00 P.M., Monday through Friday, and between the hours of 9:00 A.M. and 12:00 P.M. on Saturday, excluding the holidays listed on Exhibit E attached hereto and incorporated herein by reference ("Building Operating Hours"). Upon written request of Tenant made in accordance with the provisions of Section 5.02 below, Landlord will furnish air conditioning, ventilation and heating at times other than Building Operating Hours, in which event Tenant shall pay Landlord the costs incurred by Landlord to provide such services subject to Section 5.02 below;

(2) City water from the regular Building fixtures for drinking, lavatory and toilet purposes only;

(3) Customary cleaning and janitorial services in the Premises Monday through Friday, excluding the holidays listed on Exhibit E attached hereto, as provided in Exhibit D attached hereto;

(4) Customary cleaning, mowing, groundskeeping, snow removal and trash removal in the Common Areas;

(5) Washing of windows in the Premises, inside and outside at reasonable intervals;

(6) Adequate passenger elevator service in common with other tenants of the Building; freight elevator service during Building Operating Hours, subject to scheduling by Landlord; and

(7) Electricity for normal business usage (as described in Section 5.05 hereof) during the Building Operating Hours. Additional capacity or usage shall be provided at the option of Landlord (reasonably exercised) and at the sole cost of Tenant.

B. To the extent the services described in Section 5.01.A require electricity, water, gas, steam or other utility services supplied by public utilities, Landlord's covenants hereunder shall impose on Landlord only the obligation to use its good faith, reasonable efforts to cause the applicable public utilities to furnish the same. Except as otherwise provided below, Landlord shall not be responsible for, and shall have no liability with respect to, the quality or condition of any services provided by such public utilities.

#### 5.02 ADDITIONAL AND AFTER-HOURS SERVICES

Landlord shall not be obligated to furnish any services or utilities, other than those stated in Section 5.01 above. Tenant shall provide Landlord with twenty-four (24) hours prior written notice of its request for additional or after-hours electricity and HVAC. If Landlord furnishes electricity and HVAC requested by Tenant at times other than the Building Operating Hours, Tenant shall pay to Landlord as Additional Rent the then current charge for such electrical service within thirty (30) days after billing. If Tenant fails to make any such payment, Landlord may, without notice to Tenant and in addition to Landlord's other remedies under this Lease, discontinue any or all of such after-hours services. No such discontinuance of any service shall result in any liability of Landlord to Tenant or be considered an eviction or a disturbance of Tenant's use or occupancy of the Premises. The charge for after-hours electricity and HVAC as of the date of this Lease is Thirty-Five and No/100 Dollars (\$35.00) per hour (including any partial hour), per HVAC unit, subject to reasonable increases attributable to energy costs from time to time by Landlord.

#### 5.03 DELAYS IN FURNISHING SERVICES

Failure by Landlord to any extent to furnish any services to Tenant, the Premises or the Complex, or any cessation (including any partial curtailment) thereof, shall not render Landlord liable in any respect for damages to person, property or otherwise, nor to be construed as an eviction of Tenant, nor work an abatement of rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. Should any of the equipment or machinery utilized in supplying the services listed herein break down, or for any cause cease to function properly, Landlord shall use reasonable diligence to repair the same promptly. Notwithstanding anything contained herein to the contrary, in the event of an interruption of any of the foregoing services which results directly from the gross negligence or willful misconduct of Landlord and renders the Premises untenable for five (5) consecutive business days, provided such loss is not otherwise covered by any insurance maintained, or required hereunder to be maintained, by Tenant, then from and after the expiration of said five (5) business day period, Tenant shall have no obligation to pay any Rent hereunder until the earlier of: (i) the date such services are restored to the Premises or (ii) the date of Tenant's occupancy of the Premises.

#### 5.04 TELEPHONE AND INTERNET

Tenant shall make arrangements directly with a telephone company and internet service provider for telephone and internet service in the Premises desired by Tenant. Tenant shall pay for all telephone and internet service used or consumed in the Premises, including the cost of installation, maintenance and replacement of any items.

#### 5.05 ELECTRICITY USE

A. Landlord shall furnish electrical energy required for lighting, electrical facilities, equipment, machinery, fixtures and appliances used in or for the benefit of the Premises, in accordance with the provisions of this Lease. Tenant shall not, without prior written notice to Landlord in each instance, connect to the Building electric distribution system any fixtures, appliances or equipment other than normal office machines such as desk-top computers, copiers and fax machines, or any fixtures, appliances or equipment which Tenant on a regular basis operates beyond the Building Operating Hours. In the event of any such connection, Tenant agrees to an increase in the Base Rent by an amount which will reflect the cost to Landlord of the additional electrical service to be furnished by Landlord, such increase to be effective as of the date of any such installation. If Landlord and Tenant cannot agree thereon, such amount shall be conclusively determined by a reputable independent electrical engineer or consulting firm to be selected by Landlord and paid equally by both parties, and Tenant shall pay to Landlord as Additional Rent the cost of the service.

B. Tenant's use of electrical energy in the Premises shall not at any time exceed the capacity of any of the electrical conductors or equipment in or otherwise serving the Premises. In order to insure that such capacity is not exceeded and to avert possible adverse effect upon the Building electric service, Tenant shall not, without prior written notice to Landlord in each instance, connect to the Building electric distribution system any fixtures, appliances or equipment which operate on a voltage in excess of 120 volts nominal or make any alteration or addition to the electric system of the Premises. Unless Landlord shall object to the connection of any such fixtures, appliances or equipment, all additional risers or other equipment required therefor shall be provided by Landlord, and the cost thereof shall be paid by Tenant upon Landlord's demand. In the event of any such connection, Tenant agrees to pay as Additional Rent the amount which will reflect the cost to Landlord of the additional service to be furnished by Landlord, such increase to be effective as of the date of any such connection. If Landlord and Tenant cannot agree thereon, such amount shall be conclusively determined by a reputable independent electrical engineer or consulting firm to be selected by Landlord and paid equally by both parties, and the cost of said consultant to the Landlord will be included in Operating Costs.

C. Whenever the Base Rent is increased or decreased pursuant to any of the foregoing paragraphs of this Section, the parties agree, upon request of either, to execute and deliver each to the other an amendment to this Lease confirming such increase or decrease.

#### 5.06 EFFECTS OF TENANT'S EQUIPMENT

If any lights, machines or equipment (including but not limited to computers) are used by Tenant in the Premises which materially affect the temperature otherwise maintained by the air conditioning system, or generate substantially more heat in the Premises than would be generated by the Building standard lights and usual fractional horsepower office equipment, Landlord shall have the right to install any machinery or equipment which Landlord reasonably deems necessary to restore temperature balance, including, but not limited to, modifications to the standard air conditioning equipment, and the cost thereof, including the cost of installation and any additional cost of operation and maintenance occasioned thereby, shall be paid by Tenant to Landlord within thirty (30) days after the date of Landlord's invoice.

### 6. USE AND ENJOYMENT

#### 6.01 USE OF PREMISES

Tenant shall occupy and use the Premises for operating general office and administrative functions only. Tenant shall not occupy or use the Premises or permit the use or occupancy of the Premises for any purpose or in any manner which: (1) is unlawful or in violation of any applicable legal, governmental or quasi-governmental requirement, ordinance or rule (including the Board of Fire Underwriters); (2) may be dangerous to persons or property; (3) may invalidate or increase the amount of premiums for any policy of insurance affecting the Building or the Complex, and if any additional amounts of insurance premiums are so incurred, Tenant shall pay to Landlord the additional amounts on demand and such payment shall not authorize such use; (4) may create a nuisance, disturb any other tenant of the Building or the Complex or the occupants of neighboring property or injure the reputation of the Building or the Complex; or (5) violates the Rules and Regulations of the Building or any restrictions of record.



## 6.02 QUIET ENJOYMENT

So long as there is no Event of Default by Tenant under this Lease and provided that Tenant pays the rental and other sums herein recited and performs all of Tenant's covenants and agreements herein contained, Tenant shall be entitled to peaceful and quiet enjoyment of the Premises, subject to the terms of this Lease.

## 6.03 COMMON AREAS

A. For purposes of this Lease "Common Areas" shall mean all areas, improvements, space, equipment and special services in or at the Complex provided by Landlord for the common or joint use and benefit of tenants, customers and other invitees, including, without limitation, the garage, access roads, driveways, entrances and exits, retaining walls, landscaped areas, truck serviceways or tunnels, loading docks, pedestrian walk-ways, atriums, walls, courtyards, stairs, ramps, sidewalks, washrooms, signs identifying or advertising the Complex, maintenance and utility rooms and closets, hallways, lobbies, elevators and their housing and rooms, common window areas, walls and ceilings in Common Areas, and trash and rubbish areas.

B. Provided there is no uncured default by Tenant under this Lease, Tenant shall be entitled to use, in common with others entitled thereto, the Common Areas as may be designated from time to time by Landlord, subject however to the terms and conditions of this Lease and to the rules and regulations for the use thereof as may be prescribed from time to time by Landlord. If the size or configuration of the Common Areas is diminished or altered, Landlord shall not be liable to Tenant therefor, nor shall Tenant be entitled to any compensation or diminution or abatement of Adjusted Monthly Base Rent, nor shall such diminution or alteration of the Common Areas be considered a constructive or actual eviction.

C. Notwithstanding anything contained in this Lease, Tenant shall not utilize more than 3.5 parking spaces in the Common Areas per 1,000 square feet of Rentable Square Feet in the Premises. In the event Tenant desires additional parking in the Common Areas, additional spaces (subject to availability) may be provided by Landlord at a cost of \$50.00 per space, per month, subject to increase by Landlord from time to time; provided, however, that Landlord has no obligation to provide additional parking spaces to Tenant and Landlord may revoke additional parking spaces previously granted to Tenant at anytime, in Landlord's sole discretion.

## 7. CONDITION OF PREMISES

Tenant shall be conclusively presumed to have accepted the Premises in the condition existing on the Commencement Date, and to have waived all claims relating to the condition of the Premises. No agreement of Landlord to alter, remodel, decorate, clean or improve the Premises, the Building, the Common Areas or the Complex, and no representation regarding the condition of the Premises, the Building, the Common Areas or the Complex has been made by or on behalf of Landlord to Tenant, except as stated in this Lease.

## 8. ASSIGNMENT AND SUBLETTING

### 8.01 ASSIGNMENT AND SUBLETTING

A. Without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, Tenant shall not sublease the Premises, or assign, mortgage, pledge, encumber, hypothecate or otherwise transfer or permit the transfer of this Lease or the interest of Tenant in this Lease, in whole or in part, by operation of law, court decree or otherwise. In no case shall Tenant be allowed to: (i) assign its interest in this Lease nor sublet the Premises to (a) a governmental body, agency or bureau; any foreign government or subdivision thereof; any health care professional or health care service organization; schools or similar organizations; employment agencies; radio, television or other communication stations; restaurants; and retailers offering retail services from the Premises, or (b) a third party which does not maintain a use and density of the Premises reasonably comparable to Tenant; (ii) allow any lien to be placed upon Tenant's interest hereunder; (iii) permit the use or occupancy of the Premises or any part thereof by anyone other than Tenant, its guests and/or invitees; (iv) sublease

the Premises for less than sixty-seven percent (67%) of the Rent that Tenant is obligated to pay under this Lease, or (v) sublease the Premises or assign the Lease to any existing tenant of the Complex. If Tenant intends to assign its interest in this Lease or enter into any sublease of the Premises, Tenant shall deliver written notice of such intent to Landlord, together with a copy of the proposed assignment or sublease, at least thirty (30) days prior to the effective date of the proposed assignment or commencement date of the term of the proposed sublease. Any approved sublease shall be expressly subject to the terms and conditions of this Lease, and Tenant shall pay Landlord on the first day of each month during the term of the sublease or assignment fifty percent (50%) of any excess rent and other consideration due from the subtenant for such month, less the expenses, including marketing and advertising, leasing commissions, architectural fees, tenant improvements and vacancy period, reasonably related to the sublease or assignment, over that portion of the Adjusted Monthly Base Rent due under this Lease for said month which is allocable on a square footage basis to the space sublet. In the event of any sublease or assignment, Tenant shall not be released or discharged from any liability, whether past, present or future, under this Lease, including any Extension Term of this Lease.

B. Any request by Tenant for Landlord's consent to a specific assignment or sublease shall include (i) the name of the proposed assignee, sublessee or occupant, (ii) the nature of the proposed assignee's, sublessee's or occupant's business to be carried on in the Premises, (iii) a copy of the proposed assignment or sublease, (iv) such financial information (in the event of an assignment) and such other information as Landlord may reasonably request concerning the proposed assignee, sublessee or occupant or its business, and (v) an amount equal to One Thousand and No/100 Dollars (\$1,000.00), which amount shall be applied towards Landlord's costs incurred in obtaining advice and preparing documentation for such assignment or sublease. Further, Tenant shall, on demand of Landlord, reimburse Landlord for all Landlord's reasonable costs, including reasonable attorneys' fees, incurred by Landlord in obtaining advice and preparing documentation for each requested assignment or sublease.

C. No consent by Landlord to any assignment or sublease by Tenant, and no specification in this Lease of a right of Tenant to make any assignment or sublease, shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether arising before or after (i) the assignment or sublease or (ii) any extension of the Lease Term (pursuant to exercise of any option granted in this Lease). The consent by Landlord to any assignment or sublease shall not relieve Tenant or any successor of Tenant from the obligation to obtain Landlord's express written consent to any other assignment or sublease.

D. Notwithstanding anything contained in this Lease, no proposed assignment or sublease shall provide for a rental or other payment for the leasing, use, occupancy or utilization of all or any portion of the Premises based, in whole or in part, on the income or profits derived by any person from the Premises so leased, used, occupied or utilized. No proposed assignment of an interest in this Lease or a sublease of the Premises shall, in the sole opinion of Landlord, (a) cause a violation of the Employee Retirement Income Security Act of 1974 or the regulations promulgated thereunder, as amended from time to time, by such proposed assignee or subtenant, by Landlord, or any person which, directly or indirectly, controls, is controlled by, or is under common control with, Landlord or any person who controls Landlord, (b) result in Landlord, or any person which, directly or indirectly, controls Landlord, receiving "unrelated business taxable income" as defined in the Internal Revenue Code, as amended, or (c) be permitted to any person or entity that is in violation of the Order (hereinafter defined). Furthermore, no assignment or sublease shall be valid until the assignee has executed and delivered an assumption of all of Tenant's obligations hereunder.

E. Notwithstanding any contrary provision of this Section except for subsection G below, Landlord's consent shall not be necessary for any assignment or subletting to any person or entity (i) which controls, is controlled by, or is under common control with, Tenant; or (ii) that succeeds to the interest in Tenant's stock or assets (by merger or otherwise), provided such assignee has a tangible net worth immediately following such assignment, equal to or greater than that of Tenant as of the Commencement Date, as determined by Landlord in its reasonable discretion. In the event of an assignment or subletting pursuant to this Section 8.01E, (a) Tenant shall have notified Landlord in writing sixty (60) days prior to such assignment or subletting of its intent to effect the same, (b) at the time of assignment or subletting, no Event of Default by Tenant shall have occurred and be continuing, and (c) the proposed assignee or subtenant shall



deliver to Landlord a written agreement whereby it expressly assumes all of the Tenant's obligations under this Lease.

F. If, with the consent of Landlord, the Premises or any part thereof is sublet or occupied by any person or entity other than Tenant or this Lease is assigned, Landlord, during the continuance of an Event of Default hereunder on the part of Tenant, if any, may collect rent from the subtenant, assignee or occupant, and apply the net amount collected to rent due by Tenant to Landlord under this Lease and any other sums herein reserved. No such subletting, assignment, occupancy, or collection shall be deemed (i) a waiver of any of Tenant's covenants contained in this Lease, (ii) a release of Tenant from further performance by Tenant of its covenants under this Lease, or (iii) a waiver of any of Landlord's other rights hereunder.

G. Because of obligations imposed upon Landlord under the Ground Lease (as defined in Section 24.01 hereof), Tenant acknowledges and accepts that as a condition of any sublease or assignment, the business of such subtenant or assignee must at all times and in some way be connected or associated with North Carolina State University (the "University") such that said subtenant or assignee would be qualified to lease space directly from the University in accordance with the University's policies for leasing to tenants on Centennial Campus (a "Permitted Tenant"). In the event of a dispute concerning the qualifications of a subtenant or assignee, the question will be presented to the University's Vice Chancellor for Research, Outreach, Extension and Economic Development for a decision. Should the subtenant or assignee be dissatisfied with the decision of the Vice Chancellor, the subtenant or assignee shall have the right to submit the question to the Chancellor of the University, whose decision shall be final. Notwithstanding the foregoing, the University has agreed that: (a) it will not deny Permitted Tenant status to any applicant for reasons other than failure to meet the criteria generally applicable to other prospective tenants within Centennial Campus; and (b) any applicant for Permitted Tenant status which, at the time of such application, is already a tenant in good standing in Centennial Campus shall be granted Permitted Tenant status automatically.

## 8.02 RECAPTURE

Except in the event of an assignment or subletting in accordance with the terms of Section 8.01E above, if Tenant desires to enter into any sublease or assignment of the Premises, Landlord shall have the option to exclude from the Premises covered by this Lease, the space proposed to be sublet by Tenant or the entire Premises in the case of a proposed assignment by Tenant, effective as of the proposed commencement date of the sublease or assignment. Landlord may exercise said option by giving Tenant written notice within thirty (30) days after receipt by Landlord of Tenant's notice of the proposed sublease or assignment. If Landlord exercises said option, Tenant shall surrender possession of the proposed sublease space, or the Premises in the case of a proposed assignment, to Landlord on the effective date of exclusion of said space from the Premises covered by this Lease or the effective date of the assignment, as applicable, and neither party hereto shall have any future rights or liabilities with respect to said space under this Lease. Effective as of the date of exclusion of any portion of the Premises covered by this Lease pursuant to this paragraph, (i) the Monthly Base Rent shall be reduced in the same proportion as the number of square feet of Rentable Area contained in the portion of the Premises so excluded bears to the number of square feet of Rentable Area contained in the Premises immediately prior to such exclusion, and (ii) the Rentable Area of the Premises specified in Section 1.01I hereof shall be decreased by the number of square feet of Rentable Area contained in the portion of the Premises so excluded, for all purposes under this Lease.

## 9. MAINTENANCE

### 9.01 LANDLORD'S MAINTENANCE

Landlord shall maintain the Building in a manner which is comparable with other comparable buildings in the Raleigh/Durham market, and in substantial compliance with applicable laws, regulations, ordinances and codes; however, any non-compliance shall not materially impair Tenant's use and enjoyment of the Premises or constitute a threat or danger to the health or safety of Tenant or Tenant's Invitees. Landlord's repairs and replacements shall be made as soon as reasonably possible using due diligence and reasonable efforts, taking into account in each instance all circumstances surrounding the repair or replacement including without limitation, the materiality of the repair or replacement to Tenant's use and operation of

its business within the Premises and the relation thereof to the enjoyment of same, such period not to exceed 60 days after receiving written notice from Tenant of the need for repairs or such longer period of time as is reasonably necessary under the circumstances so long as Landlord is diligently pursuing the completion of same. Subject to reimbursement in accordance with the terms of Article 4 hereof, Landlord, at its expense, shall maintain and make necessary repairs to, and keep in good order, condition and repair, the Premises, the Building and the Common Areas, and, subject to Section 15.04 of this Lease, the electrical, plumbing, heating, ventilation and air conditioning systems of the Building and the Common Areas, except that:

A. Landlord shall not be responsible for the maintenance, repair or replacement of any such systems which are located within the Premises and are supplemental or special to the Building's standard systems, or floor or wall coverings in the Premises, or any other leasehold improvements installed by Tenant;

B. The cost of performing any of said maintenance or repairs caused by Tenant, its employees, agents, servants, licensees, subtenants, contractors or invitees, or the failure of Tenant to perform its obligations under this Lease shall be paid by Tenant, except to the extent waived pursuant to Section 11.03 hereof; provided, however, Landlord, at its option, may make such repairs or replacements, and Tenant shall repay Landlord on demand the actual cost thereof (including a reasonable charge for Landlord's overhead) of such costs for administrative cost recovery); and

C. Landlord shall not be required to maintain or repair any portion of the Premises that Tenant is expressly obligated to maintain pursuant to Section 9.02 below.

#### 9.02 TENANT'S MAINTENANCE

At Tenant's own cost and expense, and by use of a contractor or contractors approved in writing by Landlord, Tenant shall maintain, repair and replace the Premises as needed to keep all interior, non-structural portions of the Premises in good order, condition, and repair, normal wear and tear excluded, including, without limitation, the following: (a) all leasehold improvements; (b) all fixtures, interior walls, floors, carpets, draperies, window coverings and ceilings; and (c) all interior windows, doors, entrances and plate glass. If Tenant fails to commence any such repairs within ten (10) days after written notice from Landlord, or fails thereafter to diligently proceed with such repair until completion, Landlord, at its option, may make such repair or any replacement deemed necessary by Landlord, and Tenant shall pay to Landlord on demand Landlord's cost thereof (including a reasonable charge for Landlord's overhead). Tenant shall not commit or allow any waste or damage to be committed on any portion of the Premises or Complex. Upon the expiration or any earlier termination of this Lease, Tenant shall return the Premises to Landlord in as good a condition as existed on the Commencement Date, ordinary wear and tear excepted.

#### 9.03 MAINTENANCE OF COMMON AREAS

The Common Areas shall be subject to the control, management, operation and maintenance of Landlord. Landlord shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to the Common Areas. Tenant agrees to comply with such rules and regulations, to cause its officers, agents, contractors and employees to so comply and to use its best efforts to cause its customers, invitees, concessionaires, suppliers, and licensees to so comply. Landlord shall have the right to construct, maintain and operate lighting and other facilities in and on the Common Areas; to grant third parties temporary rights of use thereof; from time to time to change the area, level, location or arrangement of parking areas and other facilities located in the Common Areas; to close all or any portion of the Common Areas to such extent as may, in the opinion of Landlord, be legally sufficient to prevent a dedication thereof or accrual of any rights to any person or the public therein; and to do and perform such other acts in and to the Common Areas as, in the exercise of reasonable business judgment, Landlord shall determine to be advisable.

### 10. ALTERATIONS

#### 10.01 TENANT'S ALTERATIONS

Tenant shall not make or suffer to be made any alterations, additions or improvements to or of the Premises or any part thereof, or attach any fixtures or equipment thereto, without first obtaining Landlord's consent, which consent shall not be unreasonably withheld with respect to interior, nonstructural alterations, additions or improvements; provided, however, Tenant shall have the right to make interior, non-structural alterations to the Premises which do not impact the Building structure or systems, do not require the issuance of a governmental permit or approval and are otherwise primarily decorative in nature (the cumulative cost of which shall not exceed Five Thousand Dollars (\$5,000.00) in any given lease year upon fifteen (15) days prior written notice to Landlord (but without Landlord's prior written consent). All such alterations, additions and improvements shall be performed by contractors and subject to reasonable conditions specified by Landlord. Landlord shall be entitled to the investment tax credit on eligible property acquired or constructed at Landlord's expense. All such alterations, additions and improvements not so removed or required to be so removed shall immediately become Landlord's property and, at the end of the term hereof, shall remain on the Premises without compensation to Tenant unless Landlord elects by notice to Tenant to have Tenant remove the same, in which event Tenant shall promptly restore the Premises to its condition prior to the installation of such alterations, additions and improvements.

#### 10.02 LIENS

Tenant shall not permit any lien or claim for lien of any mechanic, laborer or supplier or any other lien to be filed against the Complex, the Building, the Common Areas, the Premises, or any part of such property arising out of work performed, or alleged to have been performed by, at the direction of, or on behalf of Tenant. If any such lien or claim for lien is filed, Tenant shall within ten (10) days after such filing either have such lien or claim for lien released of record or shall deliver to Landlord a bond or other security in form, content, amount, and issued by a company satisfactory to Landlord indemnifying Landlord and others designated by Landlord against all costs and liabilities resulting from such lien or claim for lien and the foreclosure or attempted foreclosure thereof. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same, the same shall constitute Additional Rent hereunder, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's expenses and attorneys' fees.

### 11. WAIVER OF CLAIMS AND INDEMNITY

#### 11.01 WAIVER

To the full extent permitted by law, Tenant hereby releases and waives all claims against Landlord, Landlord's lender, the Manager and their respective agents and employees for injury or damage to person, property or business sustained in or about the Complex, the Building or the Premises by Tenant, its agents or employees other than damage caused by the negligence of Landlord, Landlord's lender, the Manager or their respective agents or employees. Notwithstanding anything to the contrary contained herein, in no event shall Landlord be liable to Tenant for any punitive or consequential damages.

#### 11.02 INDEMNIFICATION

A. Except as expressly waived pursuant to the provisions of Section 11.03 hereof, Tenant agrees to indemnify, protect, defend and hold harmless Landlord, Landlord's lender, the Manager and their respective agents and employees, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including reasonable attorneys' fees and court costs), including those arising from any injury or damage to any person (including death), property or business (a) sustained in or about the Premises, (b) resulting from the occupancy or use by Tenant of the Premises, (c) resulting from the negligence or willful misconduct of Tenant, its employees, agents, contractors, invitees, licensees or subtenants, or (d) resulting from the failure of Tenant to perform its obligations under this Lease; provided, however, Tenant's obligations under this Section 11.02.A. shall not apply to injury or damage resulting from the negligence or willful misconduct of Landlord, Landlord's lender, the Manager or their respective agents or employees. With respect to the obligations of Tenant pursuant to this Section 11.02A, Tenant's insurance shall be primary and noncontributory with regard to the Premises and Tenant's operations. Landlord shall indemnify and save Tenant harmless against

any and all claims, suits, demands, actions, fines, damages, and liabilities, and all costs and expenses thereof (including without limitation reasonable attorneys' fees) attributable to Landlord's to the extent caused or occasioned wholly or in part by Landlord's (or its agent's) gross negligence or intentional misconduct, except to the extent caused by the negligence or willful misconduct of Tenant.

B. If Landlord receives notice of a claim that is subject to indemnification under Section 11.02.A. above, Landlord shall give notice to Tenant as soon as reasonably practical. Landlord shall permit Tenant, at its expense, to assume the defense of any such claim by counsel selected by Tenant and reasonably satisfactory to Landlord, and to settle or otherwise dispose of the same; provided, however, that Landlord shall have the right to participate in such defense at its expense. Notwithstanding the foregoing, Tenant shall not, without the prior written consent of Landlord, consent to the entry to any judgment, or enter into any settlement, unless such judgment or settlement provides only for the payment of money damages by Tenant, and unless such judgment or settlement includes a release by the claimant or plaintiff of Landlord and its affiliates. If Tenant fails to undertake a defense within thirty (30) days after notice from Landlord, then Landlord shall have the right to undertake the defense of, and, compromise or settle such liability or claim on behalf of, and for the account of, Tenant.

C. The indemnification obligations under this Section 11.02 shall survive the expiration or earlier termination of the Lease Term with respect to any occurrences before the effective date of such expiration or termination.

### 11.03 WAIVER OF SUBROGATION

Notwithstanding such waiver and indemnification or anything else to the contrary contained in this Lease:

A. Tenant shall not be responsible or liable to Landlord for any damage incurred by Landlord to the extent covered by property insurance obtained and maintained or required to be maintained under this Lease by Landlord in connection with the Building. Landlord shall cause its policy or policies of property insurance to contain effective waivers of subrogation for the benefit of Tenant.

B. Landlord, Landlord's lender and the Manager shall not be responsible or liable to Tenant for any damage incurred by Tenant to the extent covered by property insurance required to be obtained and maintained by Tenant with respect to the Premises and its use and occupancy thereof (whether or not such property insurance is actually obtained or maintained) and the proceeds of such other insurance as is obtained and maintained by Tenant with respect to the Premises and to its use and occupancy thereof. Tenant shall provide Landlord with confirmation that waivers of subrogation have been effected by its insurers for the benefit of Landlord, Landlord's lender and Manager, such confirmation and waivers to be in form satisfactory to Landlord.

## 12. EVENT OF DEFAULT

### 12.01 EVENTS OF DEFAULT

Each of the following shall constitute an event of default by Tenant under this Lease (each referred to herein as an "Event of Default"): (1) Tenant fails to pay within five (5) business days of its due date any rent or other sums which Tenant is obligated to pay as provided herein; provided, however, Landlord will give Tenant written notice and a five (5) day opportunity to cure its failure to pay rent or other sum due hereunder upon the first occasion in each calendar year that Tenant does not pay its rent or other sum due hereunder timely, but Landlord will not be required to give this notice more than one (1) time in any calendar year; (2) Tenant fails to observe or perform any of the other covenants, conditions or provisions of this Lease to be observed or performed by Tenant and fails to cure such default within fifteen business (15) days after written notice thereof to Tenant or such longer period (not to exceed an additional fifteen (15) business days) as may reasonably be necessary, provided Tenant is diligently pursuing a cure of such failure; (3) the interest of Tenant in this Lease is levied upon under execution or other legal process; (4) a petition is filed by or against Tenant to declare Tenant bankrupt or seeking a plan of reorganization or arrangement under any Chapter of the Bankruptcy Code, or

any amendment, replacement or substitution thereof, or to delay payment of, reduce or modify Tenant's debts, or any petition is filed or other action taken to reorganize or modify Tenant's capital structure or upon the dissolution of Tenant; (5) Tenant is declared insolvent by law or any assignment of Tenant's property is made for the benefit of creditors; (6) a receiver is appointed for Tenant or Tenant's property; (7) Tenant assigns its interest in this Lease or sublets any portion of the Premises except as permitted in this Lease or Tenant shall otherwise breach the provisions of Article 8 of this Lease; or (8) Tenant abandons the Premises. Notwithstanding anything herein to the contrary, provided Tenant continues to pay rent upon vacating the Premises prior to the expiration of the Term, Landlord shall not consider such act abandonment. Notwithstanding the foregoing, no notice to Tenant shall be required, and an Event of Default shall automatically occur, if Tenant defaults under its obligations pursuant to Articles 17, 20 or 24 hereof. Any cash or other bonus, inducement or consideration for Tenant's entering into this Lease, any rent credits, rent abatement or tenant improvement construction allowances provided to Tenant, or any and all direct and indirect costs incurred by Landlord arising out of the design or construction of any tenant improvements for the Premises (or allowances therefor) in connection with this Lease, all of which concessions are hereinafter collectively referred to as "Landlord Concessions," shall be deemed conditioned upon Tenant's full and faithful performance of all of the terms, covenants and conditions of this Lease to be performed by Tenant during the Term of this Lease.

## 12.02 LANDLORD'S REMEDIES

Upon the occurrence of an event of default by Tenant under this Lease, Landlord, at its option, without further notice or demand to Tenant and pursuant to legal process in the State of North Carolina, may in addition to all other rights and remedies provided in this Lease, at law or in equity:

A. Terminate this Lease and Tenant's right of possession of the Premises, and recover all damages to which Landlord is entitled under law, specifically including (i) the cost of recovering the Premises (including, without limitation, reasonable attorneys' fees and costs of suit), (ii) the cost as reasonably estimated by Landlord of any alterations of, or repairs to, the Premises which are necessary or proper to prepare the same for reletting (including repairs, alterations, improvements, additions, decorations, reasonable legal fees and brokerage commissions), (iii) the unpaid rent owed at the time of termination, plus interest thereon from the due date at the maximum rate permitted by law or fifteen percent (15%) per annum, whichever is less, (iv) the balance of the Monthly Base Rent for the remainder of the term of this Lease, (v) any other sum of money and damages owed by Tenant to Landlord, and (vi) any Landlord Concession abated, given, provided, paid or incurred by Landlord. In such case Landlord shall not be obligated to relet the Premises.

B. Terminate Tenant's right of possession of the Premises without terminating this Lease, in which event Landlord may, but shall not be obligated to, relet the Premises, or any part thereof for the account of Tenant, for such rent and term and upon such other terms and conditions as are acceptable to Landlord. For purposes of such reletting, Landlord is authorized to redecorate, repair, alter and improve the Premises to the extent reasonably necessary. Until Landlord does relet the Premises, Tenant shall pay Landlord monthly on the first day of each month during the period that Tenant's right of possession is terminated, a sum equal to the amount of Rent due under this Lease for such month (less any amount which Landlord could have realized if Landlord relet the Premises to a reputable, credit-worthy substitute tenant procured by Tenant and presented to Landlord in writing, which substitute tenant was ready, willing and able to lease the entire Premises from Landlord under a lease in form identical to the form of this Lease). If and when the Premises are relet and a sufficient sum is not realized from such reletting after payment of all Landlord's expenses of reletting (including repairs, alterations, improvements, additions, decorations, legal fees and brokerage commissions) to satisfy the payment of Rent due under this Lease for any month, Tenant shall pay Landlord any such deficiency monthly upon demand. Tenant agrees that Landlord may file suit to recover any sums due to Landlord under this section from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord. If Landlord elects to terminate Tenant's right to possession only without terminating this Lease, Landlord may, at its option, enter into the Premises, remove Tenant's signs and other evidences of tenancy, and take and hold possession thereof, as stated in Article 13 of this Lease; provided, however, that such entry and



possession shall not terminate this Lease or release Tenant, in whole or in part, from Tenant's obligation to pay the Rent reserved hereunder for the full Lease Term or from any other obligation of Tenant under this Lease.

C. In the event a petition is filed by or against Tenant seeking a plan of reorganization or arrangement under the Bankruptcy Code, Landlord and Tenant agree, to the extent permitted by law, that the trustee in bankruptcy shall determine within sixty (60) days after commencement of the case, whether to assume or reject this Lease.

#### 12.03 ATTORNEYS' FEES

Tenant shall pay, upon demand, all costs and expenses, including attorneys' fees, actually and reasonably incurred by Landlord in enforcing Tenant's obligations under this Lease or resulting from Tenant's default under this Lease. Landlord shall pay, upon demand, all costs and expenses, including attorneys' fees, actually and reasonably incurred by Tenant in enforcing Landlord's obligations under this Lease or resulting from Landlord's default under this Lease.

### 13. SURRENDER OF PREMISES

Upon the expiration or termination of this Lease or termination of Tenant's right of possession of the Premises, Tenant shall surrender and vacate the Premises immediately and deliver possession thereof to Landlord in a clean, good and tenable condition, ordinary wear and latent defects excepted, and shall remove from the Premises any alterations that Tenant is required to remove under the provisions of this Lease and all of Tenant's personal property (including, without limitation, all voice and data cabling). Upon any termination which occurs other than by reason of an Event of Default, Tenant shall be entitled to remove from the Premises all unattached and movable trade fixtures and personal property of Tenant without credit or compensation from Landlord, provided Tenant shall immediately repair all damage resulting from such removal and shall restore the Premises to a tenable condition. In the event possession of the Premises is not immediately delivered to Landlord or if Tenant shall fail to remove any unattached and movable trade fixtures or personal property which Tenant is entitled to remove, Landlord may remove same without any liability to Tenant. Any movable trade fixtures and personal property which may be removed from the Premises by Tenant but which are not so removed upon the vacancy of the Premises shall be conclusively presumed to have been abandoned by Tenant and title to such property shall pass to Landlord without any payment or credit, and Landlord may, at its option and at Tenant's expense, store and/or dispose of such property.

### 14. HOLDING OVER

In the event Tenant retains possession of the Premises, or any part of the Premises, after the expiration or termination of this Lease, or the termination of Tenant's right of possession of the Premises, then Tenant shall pay one hundred fifty percent (150%) of the Adjusted Monthly Base Rent then applicable for each month or partial month during such holdover period. In addition, Tenant shall pay any Additional Rent accrued during such period of holdover. Tenant shall indemnify Landlord against all liabilities and damages sustained by Landlord by reason of such retention of possession. The provisions of this Article shall not constitute a waiver by Landlord of any re-entry rights of Landlord available under this Lease or by law. If Tenant retains possession of the Premises, or any part of the Premises, after the expiration or termination of this Lease, then such holding over shall constitute a tenancy-at-will on the same terms and conditions contained herein, terminable by Landlord at any time without any prior notice.

### 15. DAMAGE BY FIRE OR OTHER CASUALTY

#### 15.01 SUBSTANTIAL UNFITNESS

If either the Premises, the Building or the Complex is rendered substantially unfit by fire or other casualty, Landlord may elect by giving Tenant written notice within one hundred twenty (120) days after the date of said fire or casualty, either to: (1) terminate this Lease as of the date of the fire or other casualty; or (2) proceed to repair or restore the Premises, the Building or the Complex (other than leasehold improvements installed by Tenant after the

Commencement Date and personal property installed by Tenant) to substantially the same condition as existed immediately prior to such fire or casualty.

If Landlord elects to proceed pursuant to option (2) in the immediately preceding paragraph, Landlord's notice shall contain Landlord's reasonable estimate of the time required to substantially complete such repair or restoration. If such estimate indicates that the time so required will exceed one hundred eighty (180) days from the date of the casualty, then Tenant shall have the right to terminate this Lease as of the date of such casualty by giving written notice to Landlord not later than twenty (20) days after the date of the Landlord's notice. If Landlord's estimate indicates that the repair or restoration can be substantially completed within one hundred eighty (180) days, or if Tenant fails to exercise its said right to terminate this Lease, this Lease shall remain in force and effect.

#### 15.02 INSUBSTANTIAL UNTENANTABILITY

If either the Premises, the Building or the Complex is damaged by fire or other casualty but the Premises is not rendered substantially untenable, then Landlord shall diligently proceed to repair and restore the damaged portions thereof, other than the leasehold improvements installed by Tenant after the Commencement Date and personal property installed by Tenant, to substantially the same condition as existed immediately prior to such fire or casualty, unless such damage occurs during the last twelve (12) months of the Lease Term, in which event Landlord shall have the right to terminate this Lease as of the date of such fire or other casualty by giving written notice to Tenant within thirty (30) days after the date of such fire or other casualty; provided, however, that Landlord shall not be required to make repairs or restoration beyond the extent of insurance proceeds actually received by Landlord for such repairs or restoration.

#### 15.03 RENT ABATEMENT

If all or any part of the Premises is damaged by fire or other casualty and this Lease is not terminated, Adjusted Monthly Base Rent shall abate for all or that part of the Premises which is untenable on a per diem and proportionate area basis from three (3) days after the date of the fire or other casualty until Landlord has substantially completed the repair and restoration work in the Premises which it is required to perform, provided, that as a result of such fire or other casualty, Tenant does not occupy the untenable portion of the Premises during such period.

#### 15.04 TENANT'S RESTORATION

If all or any part of the Premises is damaged by fire or other casualty and this Lease is not terminated, Tenant shall promptly and with due diligence repair and restore the leasehold improvements installed by Tenant after the Commencement Date and personal property previously installed by Tenant in the Premises.

### 16. EMINENT DOMAIN

#### 16.01 PERMANENT TAKING

If all or any part of the Premises, the Building or the Complex is permanently taken or condemned by any competent authority for any public use or purpose (including a deed given in lieu of condemnation), which renders the Premises substantially untenable, this Lease shall terminate as of the date title vests in such authority, and Adjusted Monthly Base Rent shall be apportioned as of such date.

#### 16.02 INSUBSTANTIAL TAKING

If any part of the Premises, the Building or the Complex is taken or condemned for any public use or purpose (including a deed given in lieu of condemnation) and this Lease is not terminated pursuant to Section 16.01 hereof, Adjusted Monthly Base Rent shall be reduced for the period of such taking by an amount which bears the same ratio to Adjusted Monthly Base Rent then in effect as the number of square feet of Rentable Area in the Premises so taken or condemned, if any, bears to the number of square feet of Rentable Area specified in Section 1.011 of this Lease. Landlord, upon receipt and to the extent of the award in condemnation or

proceeds of sale, shall make necessary repairs and restorations (exclusive of leasehold improvements and personal property installed by Tenant) to restore the Premises remaining to as near its former condition as circumstances will permit, and to the Building and Complex to the extent necessary to constitute the portion of same not so taken or condemned as a complete architectural unit. In the event of any taking or condemnation described in this Section 16.02, the Rentable Area of the Premises stated in Section 1.01I and the Rentable Area of the Building as specified in this Lease, shall be reduced, respectively, for all purposes under this Lease by the number of square feet of Rentable Area of the Premises, if any, and the Building, if any, so taken or condemned as determined and certified by an independent professional architect selected by Landlord.

#### 16.03 COMPENSATION

Landlord shall be entitled to receive the entire price or award from any such sale, taking or condemnation without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award; provided, however, Tenant shall have the right separately to pursue against the condemning authority an award in respect of the loss, if any, to leasehold improvements paid for by Tenant without any credit or allowance from Landlord. Under no circumstances shall the Tenant seek or be entitled to any compensation for the value of its leasehold estate.

### 17. TENANT'S INSURANCE

#### 17.01 TENANT'S INSURANCE

Tenant, at its expense, shall maintain in force during the Lease Term each of the following (and in the case of A., C. and E. below, Tenant shall cause such insurance to be maintained by any contractor or vendor retained by Tenant to work on or at the Premises):

A. Commercial General Liability Insurance (2001 ISO form or its equivalent) in the amount of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence, with a General Aggregate limit of at least Two Million and No/100 Dollars (\$2,000,000.00), or such greater amounts as Landlord may reasonably require. Such insurance shall be on an occurrence basis with respect to the business carried on in or from the Premises and Tenant's use and occupancy of the Premises. Tenant further agrees that such insurance shall contain fire and extended coverage legal liability insurance.

B. The equivalent of ISO Special Form Property Insurance covering Tenant's property (including fixtures, leasehold improvements and equipment) located in the Premises, providing protection to the extent of one hundred percent (100%) of the replacement cost of such property, less a commercially reasonable deductible, not to exceed \$25,000.00, and such other property insurance against such other perils and in such amounts as Landlord may from time to time reasonably require, such requirement to be made on the basis that the required insurance is customary at the time for prudent tenants of properties similar to the Building in the Raleigh, North Carolina area. Tenant further agrees that such insurance shall include extra expense coverage and Business Interruption coverage in an amount sufficient to cover the Rent and other sums payable under this Lease for a period of twelve (12) months, commencing with the date of loss.

C. Statutory Workers' Compensation Insurance and Employer's Liability Insurance with minimum limits of at least \$500,000/\$500,000/\$500,000.

D. Business Auto Liability Insurance which insures against bodily injury and property damage claims arising out of the ownership, maintenance or use of "any auto." A minimum of \$1,000,000 combined single limit shall apply.

E. Umbrella Liability insurance which provides excess coverage over the underlying Commercial General Liability, Automobile Liability, and Employers Liability policies previously described. The Umbrella policy should provide minimum limits of liability of \$4,000,000 per occurrence and aggregate, and the aggregate limit should be provided on a "per location basis."



Each policy of insurance required to be maintained by Tenant pursuant to this Article 17 shall be placed with insurance companies admitted to do business in the State where the Complex is located and carrying a current rating of at least A-IX in "Best's Insurance Guide" and shall contain an endorsement requiring thirty (30) days' written notice from the insurance company to Landlord, Landlord's lender and the Manager prior to any cancellation or material reduction in coverage of the policy. The policy of insurance required by paragraphs A and B above shall name Landlord, Landlord's lender, Landlord's real estate asset manager, the Manager, and such other parties as Landlord may designate in writing from time to time as additional insureds. Prior to the Commencement Date, and annually thereafter, Tenant shall deliver to Landlord certificates of insurance evidencing the policies of insurance required by this Article 17, together with satisfactory evidence of proof of payment of premiums. Landlord reserves the right to require Tenant to maintain additional insurance coverage as deemed necessary by Landlord in its reasonable discretion. Tenant's insurance shall be primary and non-contributory with Landlord's insurance.

#### 17.02 LANDLORD'S INSURANCE

At all times during the Lease Term, Landlord shall maintain in full force and effect the equivalent of ISO Special Form Property Insurance providing protection to the extent of not less than one hundred percent (100%) of the replacement cost of the Building (less the cost of foundations and footings and excluding leasehold improvements). Nothing herein shall be construed to require Landlord to insure those items that Tenant is obligated to insure pursuant to Section 17.01B above.

### 18. RULES AND REGULATIONS

Tenant agrees for itself and for its subtenants, employees, agents, and invitees to comply with the rules and regulations attached hereto as Exhibit B and incorporated herein by this reference (the "Rules and Regulations").

### 19. LANDLORD'S RIGHTS

By way of example and not limitation, Landlord shall have the following rights exercisable without notice (except as expressly provided to the contrary) and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for set-off or abatement of Rent: (1) to change the name or street address of the Building or the Complex, upon thirty (30) days' prior written notice to Tenant; (2) to install, affix and maintain all signs on the exterior and/or interior of the Building and in and about the Complex; (3) to designate and/or approve prior to installation, all types of signs, window shades, blinds, drapes, awnings or other similar items, and all internal lighting that may be visible from the exterior of the Premises; (4) to display the Premises to prospective tenants at reasonable hours during the last nine (9) months of the Lease Term; (5) to change the arrangement of entrances, doors, corridors, elevators and stairs in the Building, provided that no such change shall materially adversely affect access to the Premises; (6) to grant to any party the exclusive right to conduct any business or render any service in or to the Building, provided such exclusive right shall not operate to prohibit Tenant from using the Premises for the purposes permitted hereunder; (7) to prohibit the placing of vending or dispensing machines of any kind in or about the Premises other than for use by Tenant's employees; (8) to have access for Landlord and other tenants of the Building to any mail chutes and boxes located in or on the Premises according to the rules of the United States Post Office; (9) to close the Building after normal business hours, except that Tenant and its employees and invitees shall be entitled to admission at all times under such reasonable regulations as Landlord prescribes for security purposes; (10) to take any and all reasonable measures including inspections and repairs to the Premises or to the Building, as may be necessary or desirable in the operation or protection thereof; (11) to retain at all times master keys or pass keys to the Premises; (12) to install, operate and maintain security systems which monitor, by closed circuit television or otherwise, all persons entering and leaving the Building or the Complex; and (13) to install and maintain pipes, ducts, conduits, wires and structural elements located in the Premises which serve other parts or other tenants of the Building.

### 20. ESTOPPEL CERTIFICATE

Tenant shall from time to time, upon not less than ten (10) days' prior written request by Landlord or any mortgagee or ground lessor of the Complex, deliver to Landlord or such mortgagee or ground lessor a statement in writing certifying: (1) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease, as modified, is in full force and effect; (2) the amount of Adjusted Monthly Base Rent then payable under this Lease and the date to which Rent has been paid; (3) that Landlord is not in default under this Lease, or, if in default, a detailed description of such default(s); (4) whether Tenant is or is not in possession of the Premises, as the case may be; and (5) such other information as may be requested. Failure to deliver such estoppel certificate within such ten (10) day period shall be deemed Tenant's agreement to and acknowledgment of the statements contained therein and furthermore, if Tenant shall fail to deliver such estoppel certificate within such ten (10) day period, (i) Landlord shall automatically have the right to act as Tenant's attorney in fact and execute the estoppel certificate on behalf of Tenant, and (ii) if, within two (2) business days after Tenant's receipt of a second notice, Tenant fails to provide the estoppel certificate, Tenant shall pay liquidated damages to Landlord equal to Ten Thousand and No/100 Dollars (\$10,000.00). The parties hereby stipulate and agree that Landlord's damages in the event Tenant fails to provide the estoppel certificate are difficult to compute, and the foregoing fee is a reasonable estimate thereof and not a penalty.

## 21. RELOCATION OF TENANT

Intentionally omitted.

## 22. SECURITY DEPOSIT

As security for the performance of its obligations under this Lease, Tenant shall pay to Landlord, currently with its execution of this Lease, a security deposit ("Security Deposit") in the amount stated in Section 1.01J hereof. The Security Deposit may be applied by Landlord to cure any Event of Default of Tenant under this Lease, and upon notice by Landlord of such application, Tenant shall replenish the Security Deposit in full by promptly paying to Landlord the amount so applied within five (5) business days of notice from Landlord. Landlord shall not pay Tenant any interest earned on the Security Deposit. The Security Deposit shall not be deemed an advance payment of Rent or a measure of damages for any default by Tenant under this Lease, nor shall it be a bar or defense to any action which Landlord may at any time commence against Tenant. Landlord shall have the right to retain a reasonable amount of the Security Deposit following the expiration or earlier termination of this Lease in order to provide security for Tenant's payment of Tenant's Percentage Share of Adjusted Monthly Base Rent.

## 23. REAL ESTATE BROKERS

Tenant represents that, except for the broker, if any, set forth in Section 1.01L hereof as Tenant's Broker, Tenant has not dealt with any real estate broker, salesperson, or finder in connection with this Lease, and no such person initiated or participated in the negotiation of this Lease, or showed the Premises to Tenant. Tenant agrees to indemnify and hold harmless Landlord and the Manager from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representation. Landlord shall only be responsible for the payment of a commission to the brokers, if any, specified in Section 1.01L hereof, which payment shall be made only in accordance with the terms of a separate agreement between Landlord (or Manager) and Landlord's broker.

## 24. SUBORDINATION AND ATTORNMENT

### 24.01 SUBORDINATION

This Lease and the rights of Tenant and obligations of Landlord hereunder are expressly subject and subordinate to any ground lease of the land comprising the Building now or hereafter existing (specifically including but not limited to that certain Office Building Ground Lease Agreement dated March 1, 2000, by and between The Board of Trustees of the Endowment Fund of North Carolina State University, as ground lessor, and Davis Sandler Three, LLC, as ground lessee) (as amended, assigned or otherwise modified, the "Ground Lease"), and all amendments, renewals, modifications and extensions of and to any said ground lease, and to the lien and provisions of any first lien mortgage now or hereafter existing encumbering the Complex, or any

part thereof, or said ground leasehold estate, and all amendments, renewals and modifications and extensions of and to any said mortgage, and to all advances made or hereafter to be made upon the security of said mortgage. Tenant agrees to execute and deliver such further instruments subordinating this Lease to any such ground lease or the lien of any such mortgage as may be requested in writing by Landlord from time to time. As used herein, the term mortgage shall mean any first lien mortgage, deed of trust, deed to secure debt or other instruments used to secure debt.

#### 24.02 ATTORNMENT

In the event of the foreclosure of any such mortgage by voluntary agreement or otherwise, or the commencement of any judicial action seeking such foreclosure, or any transfer by a deed in lieu of foreclosure, or any similar transfer that is made in anticipation or upon threat of foreclosure, or any termination of the Ground Lease by ground lessor thereunder, Tenant, at the request of the then Landlord, shall attorn to and recognize such mortgagee, purchaser or ground lessor in foreclosure or otherwise as Tenant's Landlord under this Lease. Tenant agrees to execute and deliver at any time upon request of such mortgagee, purchaser, or their successors, any instrument to further evidence such attornment.

### 25. HAZARDOUS MATERIALS

#### 25.01 GENERATION OF HAZARDOUS MATERIALS

Tenant shall not use, generate, manufacture, produce, store, release, discharge or dispose of on, in, or under the Premises or the Complex, or transport to or from the Premises or Complex, any Hazardous Materials (as defined in subparagraph 5 below), or allow any other person or entity to do so.

#### 25.02 COMPLIANCE WITH LAWS

Tenant shall comply with all local, state and federal laws, ordinances and regulations relating to health, safety and protection of the environment, including without limitation those relating to Hazardous Materials on, in, under, about or otherwise related to the Premises.

#### 25.03 NOTIFICATION

Tenant shall promptly notify Landlord should Tenant receive notice of, or otherwise become aware of, any: (a) pending or threatened environmental regulatory action against Tenant, the Premises or the Complex; (b) claims made or threatened by any third party relating to any loss or injury resulting from any Hazardous Material; (c) release or discharge, or threatened release or discharge, of any Hazardous Material in, on, under or about the Premises or the Complex; or (d) violation of any local, state or federal law, ordinance or regulation relating to health, safety, protection of the environment or Hazardous Materials on the Premises, in the Building or in the Complex.

#### 25.04 INDEMNIFICATION

Tenant agrees to indemnify, defend and hold Landlord, the Manager and their respective agents and employees harmless from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorneys' fees) directly or indirectly attributable to Tenant's failure to comply with this Section 25, including, without limitation: (a) all consequential damages; and (b) the costs of any required or necessary repair, cleanup or detoxification of the Premises and/ or the Complex, and the preparation and implementation of any closure, remedial or other required plan. The indemnity contained in this Section 25.04 shall survive the termination or expiration of this Lease.

#### 25.05 DEFINITION OF HAZARDOUS MATERIALS

As used in this Article 25, the term "Hazardous Materials" shall mean any element, compound, mixture, solution, particle or substance which is dangerous or harmful or potentially dangerous or harmful to the health or welfare of life or environment, including but not limited to explosives, petroleum products, radioactive materials, hazardous wastes, toxic substances or

related materials, including, without limitation: (1) any substances defined as or included within the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "hazardous pollutants" or "toxic pollutants," or other similar terms, as those terms are used in the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act and the Clean Water Act, or any amendments thereto, or any regulations promulgated thereunder, and any other law or regulation promulgated by any federal, municipal, state, county or other governmental or quasi-governmental authority and/or agency or department thereof; (2) any "PCBs" or "PCB items" (as defined in 40 C.F.R. §761.3); or (3) any "asbestos" (as defined in 40 C.F.R. §763.63); provided, however, that Tenant shall not be in default hereunder if it maintains in the Premises, and Tenant is hereby permitted to retain in the Premises, common office supplies and common cleaning solvents which may be considered as Hazardous Materials.

## 26. NOTICES

All notices required or permitted to be given under this Lease shall be in writing and shall be deemed given and delivered, whether or not received: (i) three (3) business days after being deposited in the United States Mail, postage prepaid and properly addressed, certified mail, return receipt requested, or (ii) on the next business day after being deposited with a nationally-recognized, overnight delivery service such as FedEx or UPS, at the addresses shown in Section 1.01 hereof or such other address as either party may designate for itself from time to time by written notice to the other party. In addition, any notice may be given by hand delivery to the notice address of either party with a signed receipt obtained.

## 27. MISCELLANEOUS

### 27.01 LATE CHARGES

All delinquent Rent shall bear interest at the maximum rate permitted by law or fifteen percent (15%) per annum, whichever is less, from the date that is thirty (30) days following the due date thereof (for purposes of this Section 27.01, the date Rent is due shall be without regard to any grace period for payment) until paid.

### 27.02 ENTIRE AGREEMENT

This Lease and the Exhibits attached hereto contain the entire agreement between Landlord and Tenant concerning the Premises and there are no other agreements, either oral or written. This Lease may not be modified except by document in writing executed by Landlord and Tenant.

### 27.03 NO OPTION

The execution of this Lease by Tenant and delivery of same to Landlord or Manager does not constitute a reservation of or option for the Premises or an agreement to enter into a Lease, and this Lease shall become effective only if and when Landlord executes and delivers same to Tenant; provided, however, the execution and delivery by Tenant of this Lease to Landlord or the Manager shall constitute an irrevocable offer by Tenant to lease the Premises on the terms and conditions herein contained. If Tenant is a corporation, it shall, if requested by Landlord, deliver to Landlord certified resolutions of Tenant's directors authorizing execution and delivery of this Lease and the performance by Tenant of its obligations hereunder. If Tenant is a partnership, every general partner thereof shall execute this Lease, unless a lesser number is deemed sufficient in the reasonable opinion of Landlord's legal counsel.

### 27.04 ACCORD AND SATISFACTION

No payment by Tenant or receipt by Landlord of a lesser amount than any installment or payment of Rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of Rent shall be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or payment of Rent or pursue any other remedies available to Landlord. No receipt of money by

Landlord from Tenant after the termination of this Lease or Tenant's right of possession of the Premises shall reinstate, continue or extend the Lease Term.

#### 27.05 BINDING EFFECT

This Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, legal representatives, successors and permitted assigns.

#### 27.06 FORCE MAJEURE

Neither party hereto shall be deemed in default with respect to any of the terms, covenants and conditions of this Lease, if such party fails to timely perform same and such failure is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, Acts of God, acts caused directly or indirectly by the other party (or such other party's agents, employees or invitees), terrorist action, aircraft or other aerial devices or articles dropped therefrom, or any other cause beyond the commercially reasonable control of the non-performing party; provided, however, that nothing herein shall excuse Tenant's failure to pay Adjusted Monthly Base Rent or any other charges due to Landlord hereunder.

#### 27.07 CAPTIONS

The Article and Section captions in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such Articles and Sections.

#### 27.08 APPLICABLE LAW

This Lease shall be construed in accordance with the laws of the state of North Carolina. Venue shall lie in any court of competent jurisdiction within the state of North Carolina.

#### 27.09 TIME

Time is of the essence with respect to each and every provision of this Lease and the performance of all obligations hereunder.

#### 27.10 LANDLORD'S RIGHT TO PERFORM TENANT'S DUTIES

If Tenant fails timely to perform any of its duties under this Lease, then Landlord shall have the right (but not the obligation), after the expiration of any grace period elsewhere under this Lease expressly granted to Tenant for the performance of such duty, to perform such duty on behalf and at the expense of Tenant without further prior notice to Tenant, and all sums expended or expenses incurred by Landlord in performing such duty shall be deemed to be Additional Rent under this Lease and shall be due and payable upon demand by Landlord.

#### 27.11 RELATIONSHIPS

The relationship between Landlord and Tenant is that of landlord and tenant and nothing herein shall be construed to give rise to any other relationship including, without limitation, a creditor and debtor relationship.

#### 27.12 INVALIDITY

If any term(s), condition(s), covenant(s), clause(s) or provision(s) herein contained shall operate or would prospectively operate to invalidate this Lease in whole or in part, then such term(s), condition(s), covenant(s), clause(s), and provision(s) only shall be held for naught as though not herein contained, and the remainder of this Lease shall remain operative and in full force and effect.

#### 27.13 LIMITATION OF LANDLORD'S LIABILITY

Anything contained in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of the Landlord in the Building and the land thereunder for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord for any default or breach by Landlord of any of its obligations under this Lease, subject, however, to the prior rights of any ground or underlying landlord or the holder of any mortgage covering the Building or of Landlord's interest therein. No other assets of the Landlord shall be subject to levy, execution or other judicial process for the satisfaction of Tenant's claim. This provision shall not be deemed, construed or interpreted to be or constitute an agreement, express or implied between Landlord and Tenant that the Landlord's interest hereunder and in the Building shall be subject to impressment of an equitable lien or otherwise. Nothing herein contained shall be construed to limit any right of injunction against the Landlord, where appropriate.

#### 27.14 TRANSFER OF LANDLORD'S INTEREST

In the event of the sale, assignment or transfer by Landlord of its interest in the Building or in this Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord hereunder, Landlord shall thereupon be released or discharged from all of its covenants and obligations hereunder, except such obligations as shall have accrued prior to any such sale, assignment or transfer; and Tenant agrees to look solely to such successor in interest of Landlord for performance of such obligations. Any securities given by Tenant to Landlord to secure performance by Tenant of its obligations hereunder may be assigned by Landlord to such successor in interest of Landlord; and, upon acknowledgment by such successor of receipt of such security and its express assumption of the obligation to account to Tenant for such security in accordance with the terms of the Lease, Landlord shall thereby be discharged of any further obligation relating thereto. Landlord's assignment of the Lease or of any or all of its rights herein shall in no manner affect Tenant's obligations hereunder. Tenant shall thereafter attorn and look to such assignee, as Landlord, provided Tenant has first received written notice of such assignment of Landlord's interest. Landlord shall have the right to freely sell, assign or otherwise transfer its interest in the Building and/or this Lease.

#### 27.15 SIGNAGE

Tenant shall not place any sign on the Building or the Premises without Landlord's prior written consent, which shall be in Landlord's sole discretion. Landlord shall provide signage, including suite number, for Tenant within the lobby directory, at Tenant's sole cost and expense. The form of such signage shall be commensurate with the Building's current listings and overall appearance as determined by Landlord. Any subtenant permitted under the provisions of Section 8 hereof shall be responsible for cost incurred in installing additional signage.

#### 27.16 OFAC AND PATRIOT ACT

Tenant and each of its subsidiaries, members, direct and indirect owners and their respective affiliates has at all applicable times been, is now and will in the future be, in compliance with U.S. Executive Order 13224 and Title 3 of the USA Patriot Act (collectively, the "Order") and no action, proceeding, investigation, charge, claim, report or notice has been filed, commenced or threatened against any of them alleging any failure to so comply. Neither Tenant nor any of its subsidiaries, members, direct and indirect owners and their respective affiliates has knowledge or notice of any fact, event, circumstance, situation or condition which could reasonably be expected to result in (i) any action, proceeding, investigation, charge, claim, report or notice being filed, commenced or threatened against any of them alleging any failure to comply with the Order, or (ii) the imposition of any civil or criminal penalty against any of them for any failure to so comply. Neither Tenant nor its members are included in the OFAC List set forth in the Order or 31 CFR Ch V (Part 595) Appendix A.

#### 27.17 TENANT IMPROVEMENT ALLOWANCE

Tenant shall be entitled to an allowance equal to Sixty-Five Thousand Four Hundred Five and No/100 Dollars (\$65,405.00) (the "Tenant Improvement Allowance") to be used solely for the installation of showers and lockers in the Premises (collectively, the "Tenant Improvements") in accordance with contractual arrangements to be made between Tenant and a contractor and



architect approved by Landlord, which approval will not be unreasonably withheld, conditioned or delayed, and payment of Landlord's construction management fee equal to 5% of the hard and soft cost of the Tenant Improvements. To the extent the cost of the Tenant Improvements exceeds the Tenant Improvement Allowance ("Tenant's Costs"), Tenant shall be responsible for such Tenant's Costs. To the extent the cost of the Tenant Improvements is less than the Tenant Improvement Allowance, Landlord shall retain the difference, and Tenant shall have no right or claim thereto. Tenant shall use the Tenant Improvement Allowance within nine (9) months following the date of this Lease (during the period of time that Tenant is in possession of the Premises under a sublease that Landlord is not a party to), and Landlord shall have no obligation to pay any invoices related to the Tenant Improvements that are submitted to Landlord after such nine (9) month period. Concurrently with Tenant's request for any portion of the Tenant Improvement Allowance, Tenant shall provide the following information to Landlord: (i) a lien waiver from the contractor(s) installing the Tenant Improvements; (ii) an invoice from the contractor(s); and (iii) such other information as is requested by Landlord. Landlord shall have the right to approve the exact plans for the Tenant Improvements prior to the installation of the same within the Premises. Tenant hereby represents and warrants to Landlord that Tenant has the right, under its sublease for the Premises, to install the Tenant Improvements within the Premises.

#### 27.18 EXHIBITS

ALL EXHIBITS ATTACHED HERETO SHALL BE DEEMED TO BE A PART HEREOF AND HEREBY INCORPORATED HEREIN.

[Signature page follows]

IN WITNESS WHEREOF, this Lease has been executed as of the date set forth in Section 1.01D hereof.

**LANDLORD:**

**VENTURE CENTER LLC,**  
a Delaware limited liability company

By: HEITMAN/VCAC MANAGER LLC,  
a Delaware limited liability company,  
its Manager

By: Theresa Ranch  
Name: Theresa Ranch  
Its: Vice President

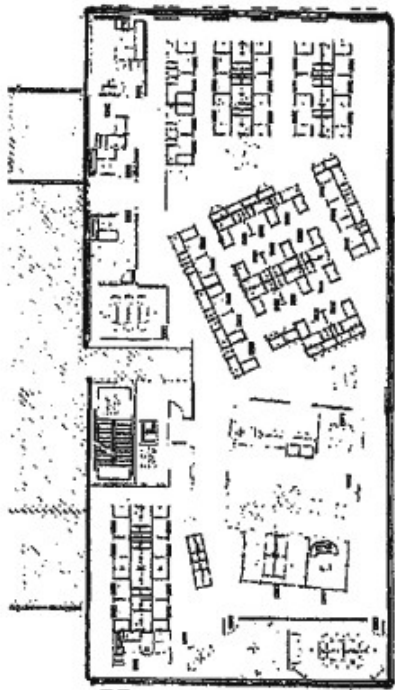
**TENANT:**

**BANDWIDTH.COM, INC.,**  
a Delaware corporation

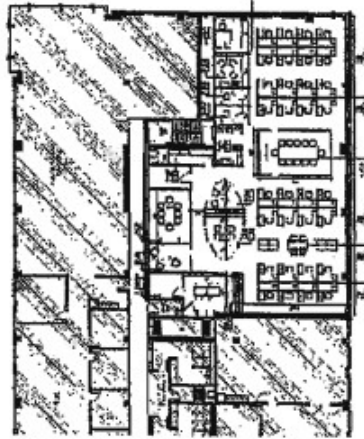
By: [Signature]  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



EXHIBIT A  
FLOOR PLAN OF PREMISES  
VENTURE CENTER THREE



2nd Floor-7,652 SF



3rd Floor-5,429 SF

**EXHIBIT A-1**

**LEGAL DESCRIPTION OF THE LAND UPON WHICH THE BUILDING IS LOCATED**

BEGINNING at a new iron pin in the southern right of way of Varsity Drive. Said pin lies South 85 degrees 14 minutes 28 seconds West, a distance of 327.90 feet from a North Carolina State University grid monument designated LOMBARDI which has grid coordinates of Northing: 736,749.66 feet and Easting: 2,095,852.59 based on NAD 1983.

Running thence from said point of BEGINNING, and with the southern right of way line of Varsity Drive, South 64 degrees 02 minutes 44 seconds East, a distance of 217.09 feet to a new iron; thence, with the southern right of way of Varsity Drive and the western right of way of Main Campus Drive, a curve to the right having a radius of 40.00 feet, an arc length of 51.74 feet, and a chord of South 26 degrees 59 minutes 16 seconds East a distance of 48.21 feet to a new iron; thence South 10 degrees 04 minutes 11 seconds West, a distance of 155.47 feet to survey nail set in a brick sidewalk; thence North 79 degrees 59 minutes 27 seconds West, a distance of 237.58 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 253.61 feet to the POINT OF BEGINNING and containing 1.19 acres, more or less.

## EXHIBIT B

### RULES AND REGULATIONS

1. The Landlord may refuse admission to the Building outside of ordinary business hours to any person not known to the watchman in charge or not properly identified, and may require all persons admitted to or leaving the Building outside of ordinary business hours to register. Any person whose presence in the Building at any time shall, in the judgment of the Landlord, be prejudicial to the safety, character, reputation and interests of the Building or its tenants may be denied access to the Building or may be ejected therefrom. In case of invasion, riot, public excitement or other commotion, the Landlord may prevent all access to the Building during the continuance of the same, by closing the doors or otherwise, for the safety of the tenants, the Building and protection of property in the Building. The Landlord may require any person leaving the Building with any package or other object to exhibit a pass from the tenant from whose premises the package or object is being removed, but the establishment and enforcement of such requirement shall not impose any responsibility on the Landlord for the protection of any tenant against the removal of property from the premises of the tenant. The Landlord shall in no way be liable to any tenant for damages or loss arising from the admission, exclusion or ejection of any person to or from the tenant's premises or the Building under the provisions of this rule.

2. Landlord reserves the right to exclude or expel from the Building any person who in the judgment of Landlord is intoxicated or under the influence of liquor or drugs.

3. Tenants shall not do or permit anything to be done in their premises or bring or keep anything therein which will in any way obstruct or interfere with the rights of other tenants, or do, or permit anything to be done in their premises which shall, in the judgment of the Landlord or its Manager, in any other way injure or annoy them, or conflict with the laws relating to fire, or with the regulations of the fire department or with any insurance policy upon the Building or any part thereof or any contents therein or conflict with any of the Rules and Ordinances of the public building or health authorities.

4. All electrical equipment used by tenants shall be U.L. approved. Nothing shall be done or permitted in any tenant's premises, and nothing shall be brought into or kept in such premises which would impair or interfere with any of the Building services or the proper and economic heating, cooling, cleaning or other servicing of the Building or such premises. Tenants shall not use electrical portable heaters or fans in the Building.

5. Tenants shall not install or operate any steam or gas engine or boiler, or carry on any mechanical business, in the Building. The use of oil, gas or inflammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Building. Tenants shall not use any other method of heating than that supplied by the Landlord.

6. Tenants shall give Landlord prompt notice of all accidents to or defects in air-conditioning equipment, plumbing, electric facilities or any part or appurtenances of their premises.

7. Tenants shall use electric, gas and any other form of energy only from such sources of supply as is furnished in the Building; provided, however, Tenants may, in the ordinary course of business, use either (i) use back-up generators located at the Complex as of the date of the Lease to which this Exhibit B is attached (or any back-up generator of similar size and capacity that may from time to time replace such back-up generator(s), or (ii) any back-up generators that Landlord may from time to time approve, which approval shall be in Landlord's sole discretion.

8. All deliveries to the Building for or by any tenant are to be made through the service entrance to Building as designated by Landlord, unless special permission is granted by Landlord for the use of other Building entrances.

9. Furniture, equipment or supplies shall be moved in or out of the Building only upon the elevator designated by Landlord and then only during such hours and in such manner as may be prescribed by Landlord.

10. Should any tenant desire to place in the Building any unusually heavy equipment, including, but not limited to, large files, safes and electronic data processing equipment, it shall first obtain written approval of the Landlord to place such items within the Building, for the use of the Building elevators, and for the proposed location in which such equipment is to be installed. The Landlord shall have the power to prescribe the weight and position of any equipment that may exceed the weight load limits of the building structure, and may further require, at the tenant's expense, the reinforcement of any flooring on which such equipment may be placed, and/or to have an engineering study performed to determine such weight and position of equipment, to determine added reinforcement required, and/or determine whether or not such equipment can be safely placed within the Building.

11. Tenants shall not place additional locks or bolts of any kind upon any of the doors of their premises and no lock on any door therein shall be changed or altered in any respect. Duplicate keys for tenant's premises and toilet rooms (if applicable) shall be procured only from Landlord, which may make a reasonable charge therefor. Upon the termination of any tenant's lease, all keys of such tenant's premises and toilet rooms shall be delivered to the Landlord.

12. Tenants shall not leave any refuse in the public hallways or other areas of Building (excepting such tenant's own premises) for disposal.

13. Landlord shall have the right to prohibit any advertising by tenants which, in Landlord's opinion, tends to impair the reputation of the Building or its desirability as a building or offices; upon written notice from the Landlord, tenants shall refrain from or discontinue such advertising.

14. If a tenant employs laborers or others outside of the Building, such tenant shall not have its employees paid in the Building, but shall arrange to pay their payrolls elsewhere. Tenants shall not advertise for laborers, giving an address at the Building.

15. Bicycles or other vehicles shall not be permitted in the offices, halls, corridors, lobbies and elevators of the Building, nor shall any obstruction of sidewalks or entrances of the Building by such be permitted.

16. The sidewalks, entries, passages, elevators and staircases shall not be obstructed or used by tenants, their servants, agents or visitors for any other purpose than ingress and egress to and from their respective offices.

17. Canvassing, soliciting and peddling in the Building is prohibited and tenants shall cooperate to prevent the same.

18. No animals, birds or pets (other than seeing-eye dogs) of any kind shall be allowed in any tenant's premises or the Building.

19. The water closets, urinals, waste lines, vents or flues of the Building shall not be used for any purpose other than those for which they were constructed, and no rubbish, acids, vapors, newspapers or other such substances of any kind shall be thrown into them. The expense caused by any breakage, stoppage or damage resulting from a violation of this rule by any tenant, its employees, visitors, guests or licensees, shall be paid by such tenant.

20. All decorating, carpentry work, or any labor required for the installation of any tenant's equipment, furnishings or other property shall be performed at such tenant's expense, subject to Landlord's prior written approval and, by Landlord's employees or at Landlord's option and consent by persons or contractors authorized in writing by Landlord. This shall apply to all work including but not limited to, installation of telephone or telegraph equipment, electrical devices and attachments, and all installations affecting floors, walls, windows, doors, ceilings, equipment or any other physical feature of the Building. None of this work shall be done by any tenant without Landlord's prior written approval. A "Tenant Contractor Entrance Authorization" form [to be supplied by Landlord (or Landlord's property manager)] will be required for any contractor or vendor who will be servicing or intending to service the Premises.

21. If any tenant desires radio signal, communication, alarm or other utility service connection installed or changed, such work shall be done at the expense of such tenant, with the prior written approval and under the direction of Landlord. No wiring shall be installed in any part of the Building without Landlord's approval and direction. Landlord reserves the right to disconnect any radio, signal or alarm system when, in Landlord's opinion, such installation or apparatus interferes with the proper operation of the Building or systems within the Building.

22. Except as permitted by Landlord, tenants shall not mark upon, paint signs upon, cut, drill into, drive nails or screws into, or in any way deface the walls, ceilings, partitions or floors of their premises or of the Building and the repair cost of any defacement, damage or injury caused by any tenant, its agents or employees, shall be paid for by such tenant.

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23. All glass, lighting fixtures, locks and trimmings in or upon the doors and windows of any tenant's premises shall be kept whole and whenever any part thereof shall be broken through cause attributable to any tenant, its agents, guests or employees, the same shall immediately be replaced or repaired by Landlord at such tenant's expense.

24. The cost of repairing any damage to the public portions of the Building or the public facilities or to any facilities used in common with other tenants, caused by any tenant or the employees, licensees, agents or invitees of any tenant, shall be paid by such tenant.

25. Tenants shall not remove any carpet, or wall coverings, window blinds, or window draperies in its premises without prior written approval from Landlord.

26. The sashes, sash doors, windows, side glass, glass floors and any lights or skylights that reflect or admit light into the halls or other places of Building shall not be covered or obstructed by any tenant without prior written approval from Landlord.

27. Tenants shall cooperate fully with the life safety plans of the Building as established and administered by the Landlord. This includes participation by tenants and employees of the tenants in exit drills, fire inspections, life safety orientations and other programs relating to fire safety that may be promulgated by the Landlord.

28. The garage gate code for the parking garage may only be used by Tenant and its guests.

29. Tenant shall not use the Common Areas for the display or storage of its personal property.

**EXHIBIT C**  
**Intentionally Omitted**

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## EXHIBIT D

### CLEANING SPECIFICATIONS

- A. General
  - 1. All cleaning work will be performed between 5:00 p.m. and 12:00 midnight, Monday through Friday, unless otherwise necessary.
  - 2. Abnormal waste removal (e.g., computer installation paper, bulk packaging, wood or cardboard crates, refuse from cafeteria operation, etc.) shall be Tenant's responsibility.
  - 3. On the days the building is closed due to holidays, building services are provided on an emergency basis only.
- B. Daily Operating (5 times per week)
  - 1. Tenant Areas
    - a. Empty and clean all waste receptacles; wash receptacles as necessary.
    - b. Vacuum rugs and carpeted areas in the main walkways.
  - 2. Lavatories
    - a. Sweep and wash floors with disinfectant.
    - b. Wash both sides of toilet seats with disinfectant.
    - c. Wash all mirrors, basins, bowls and urinals,
    - d. Spot clean toilet partitions.
    - e. Empty and disinfect sanitary napkin disposal receptacles.
    - f. Refill toilet tissue, towel, soap and sanitary napkin dispensers.
  - 3. Public Areas
    - a. Wipe down entrance doors and clean glass (interior and exterior).
    - b. Vacuum elevator carpets and wipe down doors and walls
    - c. Clean water coolers.
- C. Operations as Needed (but not less than once per week)
  - 1. Tenant and Public Areas
    - a. Buff all resilient floor areas.
- D. Weekly Operations
  - 1. Tenant Areas, Lavatories, Public Areas

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- a. Hand-dust and wipe clean all horizontal surfaces with treated cloths to include furniture, office equipment, windowsills, door ledges, chair rails, baseboards, convactor tops, etc., within normal reach.
- b. Remove finger marks from private entrance doors, light switches and doorways.
- c. Sweep all stairways.
- d. Vacuum tenant offices.

E. Monthly Operations

1. Tenant and Public Areas

- a. Vacuum and dust grillwork.

2. Lavatories

- a. Wash down interior walls and toilet partitions.

F. Yearly

1. Tenant and Public Areas

- a. Strip and wax all resilient tile floor areas

2. Entire Building

- a. Clean inside of all windows.
- b. Clean outside of all windows.

NOTE: Tenant understands that Landlord may substitute, for any of the methods or devices set forth in this Exhibit D, other methods or devices which will achieve substantially the same results. Landlord shall not be required to remove any trash from tenant's Premises generated by (1) special users of the premises, such as waste and paper disposal for computer operations, or (2) from use of the premises for more than one (1) shift, or (3) special personnel.

NOTE: Tenant understands that Landlord will not be responsible to clean any portion of the tenants leased premises which is used for, or in connection with, the preparing, dispensing or consumption of food or beverages or as an exhibition area or an auditorium or for storage, shipping room, mail room, workroom, mechanical area, conveyor, showroom, private restrooms, washroom or similar purposes, medical department, laboratory or similar purposes or which is a shop or is used for the operation of computer, data processing, reproduction, duplicating or similar equipment.

NOTE: Anything hereinabove to the contrary notwithstanding, it is understood that Landlord shall not be obligated to provide the services provided for in this Exhibit D on Saturdays,

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Sundays or days which are holidays under the applicable union agreements (where applicable).  
It being further understood that the Landlord has the right at any time and from time to time to  
add additional holidays and/or change any of said holidays.

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D-3

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**EXHIBIT E**

**LIST OF BUILDING HOLIDAYS**

1. Dr. Martin Luther King, Jr. Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Christmas Eve Day
7. Christmas Day
8. New Year's Day
9. Good Friday
10. President's Day

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

FIRST AMENDMENT TO  
LEASE

This **FIRST AMENDMENT TO LEASE** (this "First Amendment") is made and entered into effective as of the 11<sup>th</sup> day of October, 2013 (the "Effective Date"), by and between **VENTURE CENTER LLC**, a Delaware limited liability company ("Landlord"), and **BANDWIDTH.COM, INC.**, a Delaware corporation ("Tenant").

WITNESSETH:

**WHEREAS**, Landlord, as landlord, and Tenant, as tenant, entered into that certain Office Lease dated January 22, 2013 (the "Lease"), with respect to approximately seven thousand six hundred fifty-two (7,652) rentable square feet on the second floor of the Building known as Suite 267 (defined in the Lease as the "Second Floor Space"), and approximately five thousand four hundred twenty-nine (5,429) rentable square feet on the third floor of the Building known as Suite 317 (defined in the Lease as the "Third Floor Space"), both located in the office building known as Venture III Building of the Venture Center (defined in the Lease as the "Building"), as more particularly described in the Lease; and

**WHEREAS**, Landlord and Tenant have agreed that Tenant will lease one (1) additional suite located on the second (2<sup>nd</sup>) floor of the Building pursuant to the terms and conditions contained herein; and

**WHEREAS**, Landlord and Tenant have agreed to execute this First Amendment in order to memorialize the foregoing.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations of the parties contained in this First Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Incorporation. The above recitals are true and complete and are incorporated herein by this reference, and this First Amendment shall be construed in light thereof.
2. Definitions. Capitalized terms, unless otherwise defined herein, shall have the meanings ascribed to such terms in the Lease.
3. Lease of Additional Suites. (a) Effective as of the Expansion Premises Commencement Date, Landlord leases to Tenant, and Tenant accepts and leases from Landlord, approximately eight thousand eight hundred fifty-two (8,852) rentable square feet of space located on the second (2<sup>nd</sup>) floor of the Building known as Suite 201 (the "Expansion Premises") upon all of the terms and conditions contained in the Lease, as amended by this First Amendment. A depiction of the Expansion Premises is attached hereto as Exhibit A. Effective as of (i) the Expansion Premises Commencement Date, all references to the terms

"premises," "Premises," and "Tenant's Space" contained in the Lease shall be deemed to refer to the Expansion Premises; (ii) February 1, 2015, all references to the terms "premises," "Premises," and "Tenant's Space" contained in the Lease shall be deemed to refer to the Expansion Premises and Second Floor Space; and (iii) June 1, 2015, all references to the terms "premises," "Premises," and "Tenant's Space" contained in the Lease shall be deemed to refer to the Expansion Premises, Second Floor Space and Third Floor Space. Landlord and Tenant agree that the Premises, (i) as of the Expansion Premises Commencement Date, shall contain a total of approximately eight thousand eight hundred fifty-two (8,852) rentable square feet of space; (ii) as of February 1, 2015, shall contain a total of approximately sixteen thousand five hundred four (16,504) rentable square feet of space; and (iii) as of June 1, 2015, shall contain a total of approximately twenty-one thousand nine hundred thirty-three (21,933) rentable square feet of space. For the purposes hereof, the "Expansion Premises Commencement Date" shall mean the date Substantial Completion (as defined in the Work Letter attached hereto as Exhibit B and incorporated herein by reference) has occurred and Landlord has delivered the Expansion Premises to Tenant. The Expansion Premises Commencement Date shall occur on or before December 31, 2013.

(b) Subject to Tenant Delay (as defined in Exhibit B) and delays caused by force majeure, Landlord shall cause the improvements to be made to the Expansion Premises that are described on Exhibit B attached hereto and incorporated herein by this reference (the "Landlord's Work") on or before the Expansion Premises Commencement Date. Except for the Landlord's Work, Landlord has no obligation to make any improvements to the Expansion Premises.

(c) Section 2.02.A of the Lease is hereby deleted and the following is inserted in lieu thereof: "The initial term of this Lease (the "Initial Term") shall commence (i) with respect to the Expansion Premises, on the Expansion Premises Commencement Date; (ii) with respect to the Second Floor Space, on February 1, 2015; and (iii) with respect to the Third Floor Space, on June 1, 2015. The Initial Term for the entire Premises shall expire on February 28, 2017 (the "Expiration Date"). As used in this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period of the Lease Term (hereinafter defined), or any extension or renewal thereof, beginning on the Expansion Premises Commencement Date and each anniversary thereof. Landlord and Tenant stipulate and agree that Tenant is in possession of the Second Floor Space and the Third Floor Space as of the date hereof under a sublease agreement."

4. Renewal Option. Subject to all of the terms and conditions provided for the extension of the Initial Term (as defined in the Lease) set forth in Section 2.02.B. of the Lease, Tenant shall be entitled to extend the Initial Term with respect to the Expansion Premises for two (2) consecutive three (3) year periods (each, an "Expansion Premises Extension Term"), except that Tenant must give written notice of Tenant's election to extend the Initial Term with respect to the Expansion Premises at least nine (9) months (rather than six (6) months) prior to

the expiration of the then current Initial Term or Expansion Premises Extension Term. Monthly Base Rent with respect to the Expansion Premises during any Expansion Premises Extension Term shall be the prevailing Market Rate (as defined in Section 3.02 of the Lease) for the Expansion Premises as of the date the extension option is exercised, provided that, notwithstanding anything to else to the contrary contained herein, the Monthly Base Rent for each Expansion Premises Extension Term shall not be less than one hundred percent (100%) of the Monthly Base Rent in effect for the Expansion Premises at the end of the then expiring Initial Term or Expansion Premises Extension Term, as applicable. The procedure for determining the Market Rate for any such Expansion Premises Extension Term shall be as set forth in Section 3.02 of the Lease.

5. Monthly Base Rent and Additional Rent.

(a) Effective as of the Expansion Premises Commencement Date and notwithstanding anything to the contrary contained in the Lease, Tenant agrees to pay to Landlord in advance on the first day of each month throughout the Lease term, without any notice, demand, offset or reduction whatsoever, Monthly Base Rent for the Expansion Premises (i.e., 8,852 rentable square feet) as follows:

<u>Portion of Term</u>	<u>Monthly Base Rent Per Rentable Square Foot</u>	<u>Monthly Payments of Monthly Base Rent</u>
Expansion Premises Commencement Date – November 30, 2014	\$24.25	\$17,888.42
December 1, 2014 – November 30, 2015	\$24.98	\$18,426.91
December 1, 2015 – November 30, 2016	\$25.73	\$18,980.16
December 1, 2016 – February 28, 2017	\$26.50	\$19,548.17

Tenant shall pay the above stated Monthly Base Rent to Landlord on or before the first (1st) day of each calendar month in accordance with the terms of the Lease. If the Expansion Premises Commencement Date occurs prior to December 31, 2013, the Monthly Base Rent applicable to the Expansion Premises will be pro rated with respect to the first applicable calendar month during which the Expansion Premises Commencement Date occurs. Notwithstanding the foregoing, one hundred percent (100%) of Monthly Base Rent shall be conditionally abated during the first four (4) complete calendar months following the Expansion Premises Commencement Date. The abatement of Monthly Base Rent provided for in this provision is conditioned upon Tenant's full and timely performance of all of its obligations under the Lease. If at any time hereafter an event of default by Tenant occurs and is not cured by Tenant within any applicable cure period specified in the Lease, then the abatement of Monthly Base Rent

provided for in this provision shall immediately become void, and Tenant shall promptly pay to Landlord the full amount of all Monthly Base Rent herein abated.

(b) Effective as of the Expansion Premises Commencement Date and notwithstanding anything to the contrary contained in the Lease, Tenant shall pay Tenant's Percentage Share (as defined in the Lease) of the Operating Cost Adjustment (as defined in the Lease) for the then-applicable Premises in accordance with the terms of the Lease; for clarity, neither the Second Floor Space nor the Third Floor Space possessed by Tenant as of the date hereof under a sublease agreement will be included in the calculation of Tenant's Percentage Share unless and until the commencement of the Initial Term applicable to such space pursuant to Section 2.02A (as amended hereby).

6. Right of First Offer. Tenant shall have the one-time option (the "ROFO") to lease any space on the second (2nd) floor of the Building located adjacent to the Premises (the "ROFO Space") that becomes available during the Initial Term, subject to the following terms and conditions:

(a) Landlord agrees to advise Tenant in writing from time to time (but not more often than once every six (6) months), upon the written request of Tenant or upon Landlord's own initiative, of the leasing status of the ROFO Space and to advise Tenant whether the ROFO Space (or any portion thereof) is available for lease (each such notice shall be referred to herein as the "ROFO Space Notice"); provided, however, in the event Tenant's ROFO with respect to any portion of the ROFO Space has lapsed in accordance with the terms hereof, then Landlord shall have no further obligation to submit the ROFO Space Notice to Tenant with respect to the portion of the ROFO Space for which Tenant's ROFO has lapsed. The ROFO Space (or a portion thereof) shall be deemed available to lease to Tenant at such time as (i) all third-party lease agreements and lease rights relating to such space have expired (including but not limited to any pre-existing rights of first offer granted to other tenants) and/or (ii) Landlord is aware that such space soon will become vacant as a result of the expiration of a prior tenant's leasehold estate relating to such space. As used herein, the "Available ROFO Space" shall refer to the ROFO Space that is identified by Landlord from time to time in the ROFO Space Notice as being available to lease pursuant to this Section 6. Landlord shall include, in the ROFO Space Notice, the base rent, lease term, the date upon which Landlord expects the Available ROFO Space to be ready for Tenant's occupancy and any other material terms upon which Landlord would be willing to lease the Available ROFO Space to Tenant. Except as otherwise provided herein or in the ROFO Space Notice, Tenant's lease of the Available ROFO Space shall be upon all of the terms and conditions contained in this Lease.

(b) Tenant shall be entitled to exercise its ROFO under this Section 6 only if this Lease is in full force and effect and at the time of exercise of the ROFO (i) there is no event of default under the Lease, and (ii) no event has occurred or circumstances exist which with the giving of notice or the passage of time (or both) would constitute an event of default under the Lease. If Tenant shall assign

its interest in the Lease to a third party or shall have entered into a sublease with a third party for all or any portion of the Premises, then the ROFO shall be deemed null and void and of no further force and effect; provided, however, the foregoing will not apply with respect to any transaction for which Landlord's consent shall not be necessary pursuant to Section 8.01E of the Lease.

(c) Upon receipt of the ROFO Space Notice, Tenant may exercise its ROFO by providing Landlord with written notice of its intent to lease the Available ROFO Space upon the terms and conditions contained in the ROFO Space Notice within ten (10) business days after Tenant's receipt of Landlord's ROFO Space Notice. The ROFO shall apply to the entire Available ROFO Space that is the subject of the ROFO Space Notice, and may not be exercised with respect to only a portion thereof. If Tenant exercises such right within such ten (10) business day period, then Tenant and Landlord agree to use their best efforts to enter into a written amendment to the Lease adding the Available ROFO Space to the Premises within thirty (30) days following the date Tenant exercises its ROFO. If Tenant rejects the offer or fails to exercise its ROFO within the above specified ten (10) business day period, or if Tenant properly exercises its ROFO but thereafter, for any reason, fails to use its best efforts to enter into a lease amendment adding the Available ROFO Space to the Lease within the thirty (30) day time period set forth above, then (i) Tenant's ROFO shall lapse and be of no further force and effect with regard to such Available ROFO Space and (ii) Landlord shall be entitled to lease such Available ROFO Space to a third party(ies) on such terms and conditions as Landlord elects, free and clear of any further or continuing rights of Tenant under this Section 6. Time is of the essence with respect to Tenant's ROFO obligations.

7. Brokers. Tenant and Landlord each represent and warrant to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker other than Craig Davis Properties, Landlord's broker (the "Landlord's Broker"), and Synergy Commercial Advisors, LLC, Tenant's broker (the "Tenant's Broker"), and collectively with the Landlord's Broker, the "Brokers") in negotiating or making of this First Amendment. Tenant agrees to indemnify and hold Landlord harmless against any loss, liability, damage, cost or expense (including reasonable attorneys' fees and costs of litigation), or any claim therefore, for any leasing or other commissions, fees, charges or payments resulting from Tenant's breach of the foregoing representation. Landlord agrees to indemnify and hold Tenant harmless against any loss, liability, damage, cost or expense (including reasonable attorneys' fees and costs of litigation), or any claim therefore, for any leasing or other commissions, fees, charges or payments resulting form or arising out of Landlord's actions in connection with this First Amendment.
8. Ratification; Miscellaneous. The Lease, as amended by this First Amendment, shall remain enforceable in accordance with its terms. Terms and provisions of the Lease which are not expressly modified by this First Amendment shall remain in full force and effect and shall govern Tenant's lease of the Premises. As



amended by this First Amendment, all of the terms, conditions and provisions of the Lease are hereby ratified and affirmed in all respects. To the extent any terms, conditions and obligations contained in this First Amendment conflict with the terms in the Lease, those in this First Amendment shall control. This First Amendment may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become a binding agreement when one or more counterparts have been signed by and delivered to each of the parties. In the event any term or provision of this First Amendment is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed or deleted as such authority determines, and the remainder of this First Amendment shall remain in full force and effect. Landlord and Tenant hereby represent and warrant to each other that all consents or approvals required of third parties for the execution, delivery and performance of this First Amendment have been obtained and each party (including its signatory) has the right and authority to enter into and perform its covenants contained in this First Amendment.

[Signature Pages Follow]

IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be duly executed effective as of the day and year first above written.

**LANDLORD:**

**VENTURE CENTER LLC,**  
a Delaware limited liability company

By: HEITMAN/VCAC MANAGER  
LLC, a Delaware limited liability  
company, its Manager

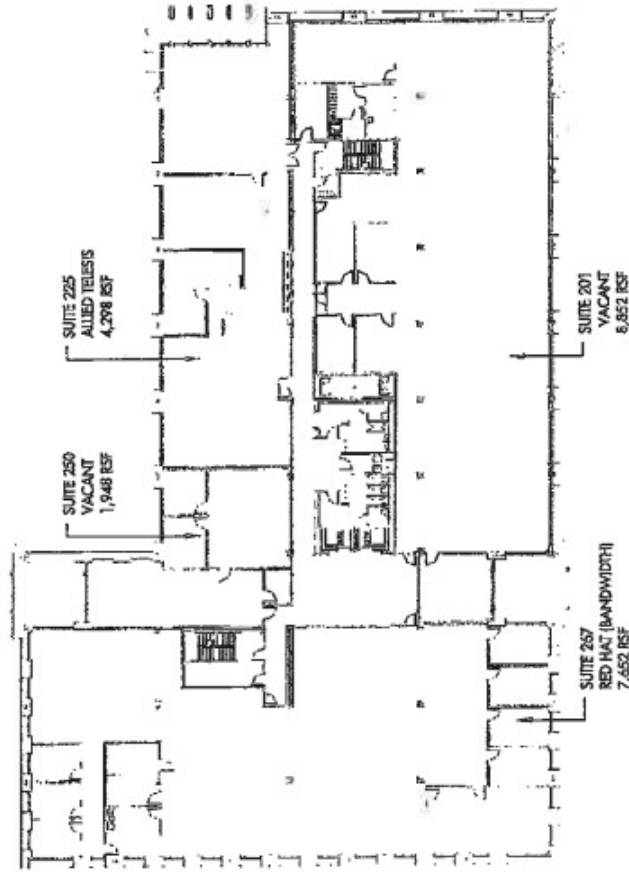
By: Theresa Runch  
Name: Theresa Runch  
Its: Vice President

**TENANT:**

**BANDWIDTH.COM, INC.,**  
a Delaware corporation

By: [Signature]  
Name: DAVID MORKEN  
Title: CEO

**EXHIBIT A**



<p><b>VENTURE CENTER</b> VENTURE III</p>	 <p><b>HagerSmith</b></p>
	<p>Architecture Landmarks Architecture Planning Interior Design 300 South Dawson Street Raleigh, North Carolina 27602 Ph: 919.838.1000 www.hagersmith.com 919.821.5547 © Copyright 2015</p>
<p><b>SECOND FLOOR</b> <b>TENANT LAYOUT</b></p>	

**EXHIBIT B**

**WORK LETTER**

This Work Letter sets forth the terms and conditions relating to the construction of the Leasehold Improvements by Landlord in the Expansion Premises.

**ARTICLE 1**

**DEFINITIONS**

1.01 "Approved Construction Drawings" means the Construction Drawings approved by Landlord pursuant to the process set forth in Article 2 below.

1.02 "Approved Space Plan" means the Space Plan approved by Landlord and attached as Exhibit A to the First Amendment of which this Work Letter is a part.

1.03 "Architect" means the architect selected by Landlord to prepare the Construction Drawings.

1.04 "Change Order" means any change, modification or addition to the Approved Construction Drawings.

1.05 "Construction Drawings" means: (a) detailed architectural drawings and specifications for Tenant's partition plan, demolition plan, reflected ceiling plan, power, communication and telephone plan (locating of data and telephone outlets with pull boxes only), electrical outlets, finish plan, elevations, details and sections; and (b) mechanical, electrical, plumbing and lighting plans and specifications where necessary for installation to Building systems.

1.06 "Contractor" means the contractor selected by Landlord to construct the Leasehold Improvements.

1.07 "Landlord's Representative" means Spectrum Properties, who Landlord has designated as its sole representative with respect to the matters set forth in this Work Letter, and who, until further notice to Tenant, has full authority and responsibility to act on behalf of Landlord as required in this Work Letter.

1.08 "Leasehold Improvements" means the improvements constructed and installed in the Expansion Premises in accordance with the Approved Construction Drawings.

1.09 "Legal Requirement(s)" means, either individually or collectively, any federal, state, local or foreign law, statute, code, ordinance, rule or regulation.

1.10 "Punch List" shall have the meaning defined in Section 4.04(c) hereof.

1.11 "Space Plan" means a preliminary architectural drawing showing all demising walls, corridors, entrances, exits, doors and interior partitions.

1.12 "Substantial Completion" shall occur when the Leasehold Improvements have been substantially completed in accordance with the Approved Construction Drawings (other than minor Punch List items and any work which cannot be completed on such date, provided such incompleteness will not substantially interfere with Tenant's use of the Expansion Premises) and, if required for occupancy, a Certificate of Occupancy (temporary or final) has been issued by the appropriate governmental authority.

1.13 "Tenant's Construction Costs" shall have the meaning defined in Section 4.02(a) hereof.

1.14 "Tenant's Construction Costs Deposit" shall have the meaning defined in Section 4.02(b)(i) hereof.

1.15 "Tenant Expenditure Authorization" or "T.E.A." means an authorization by Tenant to Landlord to expend funds on behalf of Tenant for the Leasehold Improvements, to be given on a written form in the form of that attached hereto as Schedule 1.

1.16 "Tenant Delay" shall have the meaning defined in Section 4.02(a) hereof.

1.17 "Tenant Improvement Allowance" means the allowance of Fifty-Three Thousand One Hundred Twelve and No/100 Dollars (\$53,112.00), to be provided by Landlord as set forth in Section 3.01 below.

1.18 "Tenant's Representative" means Kade Ross, who Tenant has designated as its sole representative with respect to the matters set forth in this Work Letter, and who, until further notice to Landlord, has full authority and responsibility to act on behalf of Tenant as required in this Work Letter. Tenant's Representative is authorized to execute and deliver on behalf of Tenant any and all documents required by this Work Letter. Tenant hereby warrants and represents to Landlord that Tenant's Representative has all of the requisite power and authority to execute and deliver such documents and that Tenant shall be bound by the execution of such documents on behalf of Tenant by Tenant's Representative.

1.19 "Test Fit Allowance" means Eight Hundred Eighty-Five and 20/100 Dollars (\$885.20), to be provided by Landlord as set forth in Section 3.02 below.

## ARTICLE 2

### SCHEDULE

Landlord and Tenant hereby agree that time is of the essence and that the sequence and schedule specified below shall be strictly adhered to with respect to the

design and development of the Construction Drawings and the construction of the Leasehold Improvements.

2.01 Space Plan. The Space Plan attached as Exhibit A to this First Amendment of which this Work Letter is a part shall be deemed to be the Approved Space Plan.

2.02 Construction Drawings; Bids; Selection of Contractor; T.E.A.

(a) Landlord shall direct the Architect to begin preparation of Construction Drawings. Within five (5) business days after its receipt of the Construction Drawings, Tenant shall notify Landlord in writing of its approval or disapproval, stating in reasonable detail the reasons for any disapproval.

(b) If Tenant disapproves the Construction Drawings, Landlord shall then resubmit revised Construction Drawings to Tenant containing such changes as are acceptable to Landlord, and Tenant shall approve or disapprove the revised Construction Drawings within two (2) business days after its receipt thereof, stating in reasonable detail the reasons for any disapproval.

(c) The foregoing process shall be repeated as many times as are necessary in order to obtain Construction Drawings which are approved by Landlord and Tenant. When approved by Landlord and Tenant, the Construction Drawings shall be deemed to be the Approved Construction Drawings.

(d) Notwithstanding any changes which it desires to effectuate in the Construction Drawings prior to their approval, or revisions which must be made to the Construction Drawings, if Tenant fails to approve the Construction Drawings on or before ten (10) days following the first date upon which they are originally submitted to Tenant by Landlord, then this failure shall be deemed a "Tenant Delay" pursuant to Article 5 below.

(e) Within five (5) business days after Landlord's receipt of the Approved Construction Drawings, Landlord shall submit the Approved Construction Drawings to the Contractor and obtain, within a reasonable time period, a bid for constructing the Leasehold Improvements in accordance with the Approved Construction Drawings. Upon request of Landlord, Tenant shall execute and deliver to Landlord the T.E.A. and such other documents as Landlord may request to confirm the selection bid of the Contractor. Notwithstanding any renegotiation of bids Tenant wishes to pursue, if Tenant fails to approve the bid from the Contractor and execute and deliver the T.E.A. on or before the date which is five (5) business days following its receipt of the bid, then this failure shall be deemed a "Tenant Delay" pursuant to Article 5 below.

2.03 Change Orders.

(a) All changes requested by Tenant shall require Landlord's prior written consent, not to be unreasonably withheld. Any Contractor-initiated Change Order must be reviewed and approved by Landlord and Tenant, which review and approval will not

be unreasonably withheld. Landlord shall have three (3) business days after Landlord's receipt of any Change Order to approve or disapprove such Change Order. If Landlord approves such Change Order, and if such Change Order increases or decreases the cost to Landlord of constructing the Leasehold Improvements, Landlord shall prepare and deliver to Tenant a revised bid evidencing the total costs of such Change Order, which will include any amounts incurred by Landlord in reviewing the requested changes and revising the Approved Construction Drawings and the fee provided in Section 2.03(b) below.

(b) Should any Change Order modify the Approved Construction Drawings, Tenant shall pay all additional costs thereby incurred by Landlord, plus a fee of ten percent (10%) of the additional cost for Landlord's cost of coordination, supervision and overhead resulting from the revision to the Approved Construction Drawings, excluding any additional architectural and/or engineering fees. All revised or additional Construction Drawings are subject to Landlord's prior review and written approval. If and when approved by Landlord, such revised or additional Construction Drawings shall be deemed to be a part of the Approved Construction Drawings.

(c) Prior to commencement of construction or installation of any of the Leasehold Improvements provided in any Change Order, Tenant shall execute and deliver to Landlord a revised T.E.A. reflecting any increases or decreases in the cost to Landlord of constructing the Leasehold Improvements.

2.04 Legal Requirements. All design, construction and installation shall conform to the requirements of the Lease, and all Legal Requirements. Landlord shall be responsible for obtaining approval of the Approved Construction Drawings by all governmental agencies having jurisdiction over the Premises and for obtaining all necessary licenses and permits in connection with the Leasehold Improvements, including temporary and permanent certificates of occupancy for the Expansion Premises. Tenant shall reasonably cooperate with Landlord in obtaining such approvals and permits.

2.05 Materials and Workmanship. All work and materials required under the Approved Construction Drawings, including all materials, finishes and workmanship shall be equal to, or of a quality superior to, Building standard. Except as approved by Landlord, all materials incorporated in the Leasehold Improvements shall be new.

2.06 Field Verification. Architect shall verify at the job site all dimensions, locations and structural members and any physical conditions affecting the Construction Drawings.

### ARTICLE 3

#### LANDLORD'S OBLIGATIONS

3.01 Tenant Improvement Allowance. Landlord shall contribute the Tenant Improvement Allowance towards the cost of constructing the Leasehold Improvements in the Expansion Premises. Tenant may also use a portion of the Tenant Improvement

Allowance not to exceed \$44,260.00 towards soft costs, including, without limitation, costs associated with data cabling, furniture, IT infrastructure, moving, etc. The Tenant Improvement Allowance must be used only for the actual out-of-pocket costs (hard and soft) of constructing the Leasehold Improvements in the Expansion Premises from concrete slab to concrete deck. Landlord will apply the Tenant Improvement Allowance to pay the cost of constructing the Leasehold Improvements, as such costs are incurred. After the Tenant Improvement Allowance has been exhausted, Landlord will apply Tenant's Construction Costs Deposit to pay Tenant's Construction Costs as such costs are incurred. Any unused portion of the Tenant Improvement Allowance shall be retained by Landlord. Any unused portion of Tenant's Construction Costs Deposit shall be refunded to Tenant.

3.02 Test Fit Allowance. The Test Fit Allowance may be applied to the cost of the preparation of the Space Plan. Tenant shall pay all costs incurred in preparing the Space Plan in excess of the Test Fit Allowance. Landlord shall retain any unused portion of the Test Fit Allowance.

3.03 Intentionally omitted.

3.04 Coordination. Unless otherwise agreed in writing by Landlord and Tenant, all work involved in the construction and installation of the Leasehold Improvements shall be carried out by Contractor under a contract with Landlord and under the sole direction of Landlord. Tenant shall cooperate with Landlord, Contractor and the Architect to promote the efficient and expeditious completion of such work. All work not within the scope of the normal construction trades employed for the Building, such as the furnishing and installation of draperies, furniture, telephone equipment and wiring, and office equipment, shall be furnished and installed by Tenant at Tenant's expense.

3.05 Commencement of Construction. Landlord shall have no obligation to commence or to allow commencement of construction or installation of the Leasehold Improvements in the Expansion Premises until:

(a) Tenant has delivered to Landlord the Approved Construction Drawings, if applicable, initialed by Tenant's Representative and Landlord's Representative, and the executed T.E.A., and Tenant has approved the selection of the Contractor and the bid in writing, all as required pursuant to Section 2.02 above;

(b) Landlord has received from Tenant payment of all Rent then due under the Lease;

(c) Landlord has received from Tenant payment of Tenant's Construction Costs Deposit, if any; and

(d) Landlord has completed the base building improvements (i.e., the shell) for the Building.



3.06 Commencement of Change Orders. Landlord shall have no obligation to commence or to allow commencement of construction or installation of any of the Leasehold Improvements provided in any Change Order until Landlord has received from Tenant payment of the required addition to Tenant's Construction Costs Deposit, if any, and the executed revised T.E.A., as provided in Section 2.03(c) above, with respect to such Change Order.

3.07 Substitutions. Landlord, upon prior notice to Tenant, reserves the right to make reasonable substitutions of equal or better quality and value in the event of unavailability of materials or due to field conditions.

#### ARTICLE 4

##### TENANT'S OBLIGATIONS

4.01 Leasehold Improvements. All work required by the Approved Construction Drawings shall be considered part of the Leasehold Improvements.

##### 4.02 Payments.

(a) Tenant shall be responsible for payment of the following to the extent such costs exceed the Tenant Improvement Allowance:

(i) The costs of preparation of the Construction Drawings and all costs to complete the construction of the Leasehold Improvements, including but not limited to the cost of all labor and materials supplied by the Contractor and Landlord and their respective material suppliers, independent contractors and subcontractors to construct and complete the Leasehold Improvements, including but not limited to the cost of any Change Orders, and Contractor's profit and overhead expenses.

(ii) A fee to Landlord as a construction management fee equal to ~~one~~ <sup>3.0%</sup> ~~and one-half~~ percent (1.5%) of the total of the costs set forth in this Section 4.02(a) (including Change Orders). *DM JK  
three*

The costs set forth in this Section 4.02(a) are collectively referred to herein as "Tenant's Construction Costs."

(b) Tenant shall pay Tenant's Construction Costs, plus any other costs owing by Tenant to Landlord in connection with the construction of the Leasehold Improvements, as follows:

(i) On the date of execution of the T.E.A., Tenant shall pay to Landlord one hundred percent (100%) of the amount by which the amount indicated on the T.E.A. exceeds the Tenant Improvement Allowance ("Tenant's Construction Costs Deposit");

(ii) On the date of approval by Landlord of any Change Order which increases or decreases the cost of the Leasehold Improvements, Tenant shall execute a

revised T.E.A., as provided in Section 2.03(c) above, evidencing such increased or decreased cost and shall deposit with Landlord, as an addition to Tenant's Construction Costs Deposit, one hundred percent (100%) of the amount of the increased or decreased costs represented by such Change Order;

(iii) Tenant shall pay to Landlord, upon Substantial Completion of the Leasehold Improvements, the remainder, if any, of Tenant's Construction Costs, plus any other costs owing by Tenant to Landlord in connection with the construction of the Leasehold Improvements, such amount to be indicated on a statement delivered by Landlord to Tenant and paid by Tenant. The amount shown on such statement shall be paid by Tenant within ten (10) days after receipt of such statement.

(c) Tenant agrees that in the event it fails to make any payment required in this Work Letter in a timely manner, Landlord, in addition to any and all other remedies allowed to Landlord by law or in equity, shall have the same rights and remedies against Tenant as in the case of a default in payment of Rent under the Lease.

4.03 Intentionally Deleted.

4.04 General Provisions.

(a) This Work Letter shall not be deemed applicable to:

(i) any portion of the Premises other than the Expansion Premises;

(ii) any space other than the Expansion Premises which is subsequently added to the Premises under the Lease, whether by any option or right under the Lease, including expansion options, rights of first offer and rights of first opportunity, or otherwise;

(iii) any portion of the Premises or any additions thereto in the event of a renewal or extension of the Term of the Lease, whether by any option or right under the Lease, including extension or renewal options, or otherwise, unless expressly provided in the Lease or any amendment thereto; or

(iv) any portion of the Premises which has been assigned or subleased by Tenant.

(b) Any changes to the Approved Space Plan or the Approved Construction Drawings, or any additional work required by any governmental agencies having jurisdiction over the Building or any aspect of the completion of the Leasehold Improvements may be complied with by Landlord and/or Contractor. Such changes and/or additional work shall not be deemed to be a violation of the Approved Space Plan, the Approved Construction Drawings or any other provision of this Work Letter and shall be accepted by Tenant. If such changes and/or additional work increase or decrease the cost to Landlord of constructing the Leasehold Improvements, Landlord shall prepare and deliver to Tenant a revised T.E.A. and a Change Order evidencing the total cost of such changes and/or additional work.

(c) Notwithstanding any provisions to the contrary contained in this Lease, within thirty (30) days following Substantial Completion of the Leasehold Improvements, Tenant shall submit to Landlord a written itemization (the "Punch List") of items of construction that were not properly completed. Upon receipt of the Punch List, Landlord shall cause such items to be corrected or completed. Upon completion of all items in the Punch List and at the request of Landlord, Tenant shall execute a document acknowledging the date upon which all Punch List items were completed.

(d) Tenant's sole and exclusive remedy against Landlord for any defects in material or workmanship shall be to notify Landlord thereof, and then Landlord shall use commercially reasonable efforts to enforce the warranty given by the Contractor (which shall be a one (1) year warranty following Substantial Completion). Notwithstanding the foregoing, Landlord shall have no obligation to repair or replace such defects of material or workmanship unless Tenant submits written notice of such defects to Landlord within one (1) year after the Expansion Premises Commencement Date. LANDLORD MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE LEASEHOLD IMPROVEMENTS EXCEPT THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 4.04(d). TENANT'S SOLE REMEDY FOR THE BREACH OF ANY APPLICABLE WARRANTY SHALL BE THE REMEDY SET FORTH IN THIS SECTION 4.04(d). Tenant agrees that no other remedy, including, without limitation, incidental or consequential damages for lost profits, injury to person or property or any other incidental or consequential loss shall be available to Tenant.

## ARTICLE 5

### TENANT DELAY

5.01 Tenant Delay. The term "Tenant Delay" shall mean each day that Substantial Completion of the Leasehold Improvements is delayed by any of the following:

(a) Tenant's failure to respond, within the time periods prescribed by Landlord, to a request for information necessary for the completion of the Construction Drawings; or

(b) Failure for any reason to develop the Approved Construction Drawings by the dates prescribed herein; or

(c) Tenant's failure to execute and deliver the T.E.A. by the date required in Section 2.02(e) above; or

(d) Tenant's failure to pay the Rent as required in the Lease; or

(e) Tenant's failure to pay Tenant's Construction Costs Deposit by the date required in Section 4.02(b)(i) above; or

(f) Changes by Tenant in the Approved Construction Drawings or Change Orders; or

(g) Requirements by Tenant for materials, finishes or installations which are not Building standard, including but not limited to any delays caused by failure to obtain or to receive delivery or installation of any such non-Building standard materials in a timely manner; or

(h) Any interference by Tenant with the performance of the construction and installation of the Leasehold Improvements; or

(i) Delay by Tenant in delivering to Landlord an executed, revised T.E.A. and paying to Landlord an addition to Tenant's Construction Costs Deposit required by a Change Order; or

(j) Any other cause which is defined as a Tenant Delay under this Work Letter or the Lease; or

(k) Changes to the base, shell and core of the Building required by the Approved Construction Drawings; or

(l) Any other acts or omissions of Tenant, or its agents, or employees.

The date that Substantial Completion actually occurs will be accelerated for all purposes of this Lease (including, without limitation, for determination of the Expansion Premises Commencement Date and the obligation to pay Rent), on a day-for-day basis for each day of Tenant Delay.

Schedule 1  
of  
Exhibit "C"

**TENANT EXPENDITURE AUTHORIZATION**

Project: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
T.E.A. #: \_\_\_\_\_

Distribution: \_\_\_\_\_ Prepared By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Contractor: \_\_\_\_\_

Architect: \_\_\_\_\_

Rentable Square Feet: \_\_\_\_\_

Based On: \_\_\_\_\_

Architectural/Mechanical/Electrical/Structural Engineering Design Fees	\$
Construction: _____	\$
_____	\$
_____	\$
_____	\$ _____
<b>SUBTOTAL</b>	<b>\$</b>
Construction Management Fee	\$
Contingency	\$ _____
Total Estimated Project Cost	\$
Tenant Improvement Allowance	\$
Tenant's Construction Costs Deposit	\$ _____
Total Now Due and Payable	\$

Recommendation for Authorization:

Tenant Authorization:

\_\_\_\_\_  
Landlord's Representative      Date      \_\_\_\_\_  
Tenant's Representative      Date

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**DECLARATION OF LEASE COMMENCEMENT**

THIS DECLARATION is attached to and made a part of that certain Fifth Amendment to Lease dated the 26th day of September, 2016 ("Lease") by and between **VENTURE CENTER LLC**, a Delaware limited liability company ("Landlord") and **BANDWIDTH.COM**, a North Carolina professional corporation. ("Tenant").

Landlord and Tenant are parties to the Lease. All capitalized terms used herein shall have the same meaning as was ascribed to such terms in the Lease, unless otherwise indicated.


Landlord and Tenant do hereby declare that (a) the Commencement Date is hereby established for leased space at 940 Main Campus Drive, Raleigh, NC, to be April 13, 2017; and (b) the Term shall expire on July 12, 2022 unless the Lease is earlier terminated as may be provided therein. Landlord and Tenant do also hereby declare that the lease expiration date has been extended for leased space at 900 Main Campus Drive, Raleigh, NC, 27606 and the term for this leased space shall also expire on July 12, 2022. The Lease is in full force and effect as of the date hereof, and Landlord has fulfilled all of its obligations under the Lease required to be fulfilled by Landlord on or prior to such date.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Declaration of Lease Commencement on this 27th day of April, 2017.

**LANDLORD:**

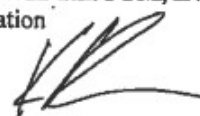
**VENTURE CENTER LLC,**  
a Delaware limited liability company

By: **HEITMAN/VCAC MANAGER, LLC,**  
a Delaware limited liability company,  
its Manager

By:   
Name: Theresa Ruock  
Its: Vice President

**TENANT:**

**BANDWIDTH.COM, INC.** a Delaware  
corporation

By:   
Name: Kade Ross  
Its: Executive VP



**EXHIBIT B**

**FLOOR PLAN OF PREMISES**

**DEPICTION OF VENTURE I PREMISES**



## EXHIBIT C

### LEGAL DESCRIPTION OF BUILDING

#### Venture Center I

Lying and being located in Swift Creek Township, Raleigh, Wake County, North Carolina and more particularly described as follows:

**BEGINNING** at a new iron pin in the southern right of way of Varsity Drive. Said pin has South 85 degrees 14 minutes 28 seconds West, a distance of 527.90 feet from a North Carolina State University grid monument designated LOMBARDI which has grid coordinates of Northing: 756,749.66 feet and Easting: 2,095,852.59 based on NAD 1983.

Running thence from said POINT OF BEGINNING South 10 degrees 00 minutes 33 seconds West, a distance of 253.61 feet to a point, thence continue South 10 degrees 00 minutes 33 seconds West along said line, a distance of 192.86 feet to a point; thence continue South 10 degrees 00 minutes 33 seconds West along said line, a distance of 177.10 feet to a point; thence South 79 degrees 59 minutes 27 seconds East, a distance of 84.53 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 81.42 feet to a point; thence South 79 degrees 59 minutes 27 seconds East, a distance of 4.80 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 6.71 feet to a point; thence South 79 degrees 59 minutes 27 seconds East, a distance of 147.95 feet to a survey nail set in a sidewalk; thence South 10 degrees 04 minutes 11 seconds West, a distance of 276.41 feet to a new iron; thence a curve to the right having a radius of 50.00 feet, an arc length of 47.07 feet, and a chord of South 55 degrees 01 minutes 11 seconds West a distance of 42.39 feet to a survey nail; thence North 80 degrees 01 minutes 49 seconds West, a distance of 277.40 feet to a survey nail; thence North 10 degrees 12 minutes 25 seconds East, a distance of 59.54 feet to a new iron; thence North 40 degrees 40 minutes 40 seconds West, a distance of 69.94 feet to a new iron; thence North 79 degrees 46 minutes 45 seconds West, a distance of 143.87 feet to a new iron; thence North 10 degrees 11 minutes 43 seconds East, a distance of 364.88 feet to a new iron; thence North 79 degrees 59 minutes 27 seconds West, a distance of 59.61 feet to a new iron; thence North 10 degrees 00 minutes 33 seconds East, a distance of 212.42 feet to a new iron; thence North 79 degrees 59 minutes 27 seconds West, a distance of 37.62 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 270.34 feet to a new iron on the southern right of way of Varsity Drive; thence, with the southern right of way Line of Varsity Drive, a curve to the right having a radius of 1490.39 feet, an arc length of 50.50 feet and a chord of South 59 degrees 59 minutes 31 seconds East, a distance of 50.50 feet to a new iron; leaving the right of way; thence South 10 degrees 00 minutes 33 seconds West, a distance of 172.74 feet to new iron; thence South 79 degrees 59 minutes 27 seconds East, a distance of 50.81 feet to a point; thence South 10 degrees 00 minutes 33 seconds West, a distance of 19.75 feet to a point; thence South 79 degrees 59 minutes 27 seconds East, a distance of 186.86 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 19.75 feet to a point; thence South 79 degrees 59 minutes 27 seconds East, a distance of 43.42 feet to a point; thence North 10 degrees 00 minutes 33 seconds East, a distance of 95.90 feet to a survey nail in the sidewalk on the southern right of way of Varsity Drive; thence, with the southern right of way of Varsity Drive, South 64 degrees 02 minutes 44 seconds East, a distance of 37.89 feet to the POINT OF BEGINNING and containing 6.42 acres, more or less.

WEL108064201197278 000



**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)

UK Bandwidth Limited (England and Wales)

NL Bandwidth B.V. (Netherlands)

**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. 333-228939) of Bandwidth Inc., and
2. 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 report dated February 15, 2019, with respect to the consolidated financial statements of Bandwidth Inc. included in this Annual Report (Form 10-K) of Bandwidth Inc. for the year ended December 31, 2018.

/s/ Ernst & Young LLP

Raleigh, North Carolina  
February 15, 2019

**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 15, 2019

/s/ David A. Morken

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David A. Morken

Chief Executive Officer and Chairman

*(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, Jeffrey A. Hoffman 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 15, 2019

/s/ Jeffrey A. Hoffman

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Jeffrey A. Hoffman

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 Jeffrey A. Hoffman, 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, 2018, 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 15, 2019

/s/ David A. Morken

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David A. Morken

Chief Executive Officer and Chairman

*(Principal Executive Officer)*

/s/ Jeffrey A. Hoffman

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Jeffrey A. Hoffman

Chief Financial Officer

*(Principal Accounting and Financial Officer)*