

# BAZAARVOICE INC

## FORM 10-Q (Quarterly Report)

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Address	10901 STONELAKE BLVD. AUSTIN, TX, 78759
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Sector	Technology
Fiscal Year	04/30

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

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**FORM 10-Q**

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

For the quarterly period ended July 31, 2017

OR

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

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

Commission file number 001-35433

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**BAZAARVOICE, INC.**

(Exact name of registrant as specified in its charter)

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State of Delaware  
(State or other jurisdiction of  
incorporation or organization)

20-2908277  
(I.R.S. Employer  
Identification No.)

10901 South Stonelake Blvd.  
Austin, Texas  
(Address of principal executive offices)

78759-5749  
(Zip Code)

Registrant's telephone number, including area code: (512) 551-6000

Not Applicable

(Former name, former address, and former fiscal year, if changed since last report)

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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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes  No

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>	Emerging growth company	<input type="checkbox"/>
Non-accelerated filer (Do not check if a smaller reporting company)	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>		

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

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

The number of shares of the registrant's common stock outstanding as of September 5, 2017 was 85,590,521 .

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[Table of Contents](#)

**Bazaarvoice, Inc.**  
**Table of Contents**

	<u>Page</u>
<b>Part I.</b>	<b><a href="#">Financial Information</a></b>
Item 1.	<a href="#">Condensed Consolidated Financial Statements:</a>
	<a href="#">Unaudited Condensed Consolidated Balance Sheets as of July 31, 2017 and April 30, 2017</a> 1
	<a href="#">Unaudited Condensed Consolidated Statements of Operations for the three months ended July 31, 2017 and 2016</a> 2
	<a href="#">Unaudited Condensed Consolidated Statements of Comprehensive Loss for the three months ended July 31, 2017 and 2016</a> 3
	<a href="#">Unaudited Condensed Consolidated Statement of Changes in Stockholders' Equity for the three months ended July 31, 2017</a> 4
	<a href="#">Unaudited Condensed Consolidated Statements of Cash Flows for the three months ended July 31, 2017 and 2016</a> 5
	<a href="#">Notes to Unaudited Condensed Consolidated Financial Statements</a> 6
Item 2.	<a href="#">Management's Discussion and Analysis of Financial Condition and Results of Operations</a> 16
Item 3.	<a href="#">Quantitative and Qualitative Disclosures About Market Risk</a> 28
Item 4.	<a href="#">Controls and Procedures</a> 29
<b>Part II.</b>	<b><a href="#">Other Information</a></b> 30
Item 1.	<a href="#">Legal Proceedings</a> 30
Item 1A.	<a href="#">Risk Factors</a> 30
Item 2.	<a href="#">Unregistered Sales of Equity Securities and Use of Proceeds</a> 30
Item 6.	<a href="#">Exhibits</a> 30
	<a href="#">Signatures</a> 32

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**Bazaarvoice, Inc.**  
**Condensed Consolidated Balance Sheets**  
**(in thousands, except shares and per share data)**  
**(unaudited)**

	July 31, 2017	April 30, 2017
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 47,016	\$ 52,494
Short-term investments	37,522	38,689
Accounts receivable, net of allowance for doubtful accounts of \$1,037 and \$1,260 as of July 31, 2017 and April 30, 2017, respectively	48,861	43,713
Prepaid expenses and other current assets	6,892	7,619
Total current assets	140,291	142,515
Property, equipment and capitalized internal-use software development costs, net	29,117	28,358
Goodwill	139,155	139,155
Acquired intangible assets, net	7,245	7,717
Other non-current assets	4,217	4,210
Total assets	\$ 320,025	\$ 321,955
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 4,266	\$ 4,310
Accrued expenses and other current liabilities	17,492	20,602
Revolving line of credit	27,000	32,000
Deferred revenue	73,046	69,656
Total current liabilities	121,804	126,568
Long-term liabilities:		
Deferred revenue less current portion	2,130	2,540
Other liabilities, long-term	7,273	6,542
Total liabilities	131,207	135,650
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Common stock – \$0.0001 par value; 150,000,000 shares authorized, 85,785,521 shares issued and 85,585,521 shares outstanding as of July 31, 2017; 150,000,000 shares authorized, 84,487,847 shares issued and 84,287,847 shares outstanding at April 30, 2017	8	8
Treasury stock, at cost – 200,000 shares as of July 31, 2017 and April 30, 2017	—	—
Additional paid-in capital	460,641	455,755
Accumulated other comprehensive loss	(1,413)	(1,682)
Accumulated deficit	(270,418)	(267,776)
Total stockholders' equity	188,818	186,305
Total liabilities and stockholders' equity	\$ 320,025	\$ 321,955

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Bazaarvoice, Inc.**  
**Condensed Consolidated Statements of Operations**  
**(in thousands, except net loss per share data)**  
**(unaudited)**

	<u>Three Months Ended July 31,</u>	
	<u>2017</u>	<u>2016</u>
Revenue	\$ 52,158	\$ 50,093
Cost of revenue	19,765	18,756
Gross profit	32,393	31,337
Operating expenses:		
Sales and marketing	14,604	15,304
Research and development	10,503	11,073
General and administrative	8,585	8,259
Restructuring charges	40	327
Acquisition-related and other	261	176
Amortization of acquired intangible assets	309	309
Total operating expenses	34,302	35,448
Operating loss	(1,909)	(4,111)
Other income (expense), net:		
Interest income	86	142
Interest expense	(394)	(489)
Other income (expense)	25	(512)
Total other expense, net	(283)	(859)
Loss before income taxes	(2,192)	(4,970)
Income tax expense	124	135
Net loss	\$ (2,316)	\$ (5,105)
<b>Net loss per share:</b>		
Basic and diluted loss per share	\$ (0.03)	\$ (0.06)
Basic and diluted weighted average number of shares outstanding	84,663	82,214

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Bazaarvoice, Inc.**  
**Condensed Consolidated Statements of Comprehensive Loss**  
**(in thousands)**  
**(unaudited)**

	<u>Three Months Ended July 31,</u>	
	<u>2017</u>	<u>2016</u>
Net loss	\$ (2,316)	\$ (5,105)
Other comprehensive gain (loss), net of tax:		
Foreign currency translation adjustment	283	(638)
Unrealized loss on investments	(14)	(1)
Total other comprehensive gain (loss), net of tax	<u>269</u>	<u>(639)</u>
Comprehensive loss	<u>\$ (2,047)</u>	<u>\$ (5,744)</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**stocBazaarvoice, Inc.**  
**Condensed Consolidated Statement of Changes in Stockholders' Equity**  
**(in thousands)**  
**(unaudited)**

	Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Number of Shares	Amount	Number of Shares	Amount				
Balance at April 30, 2017	84,488	\$ 8	(200)	\$ —	\$ 455,755	\$ (1,682)	\$ (267,776)	\$ 186,305
Cumulative effect adjustment for adoption of Accounting Standards Update 2016-09	—	—	—	—	326	—	(326)	—
Stock-based expense	—	—	—	—	4,959	—	—	4,959
Issuance of common stock upon exercise of stock options	99	—	—	—	378	—	—	378
Vested restricted stock units converted to shares	1,362	—	—	—	—	—	—	—
Tax withholdings related to net share settlements of stock-based compensation awards	(163)	—	—	—	(777)	—	—	(777)
Change in foreign currency translation adjustment	—	—	—	—	—	283	—	283
Change in unrealized loss on investments	—	—	—	—	—	(14)	—	(14)
Net loss	—	—	—	—	—	—	(2,316)	(2,316)
Balance at July 31, 2017	85,786	\$ 8	(200)	\$ —	\$ 460,641	\$ (1,413)	\$ (270,418)	\$ 188,818

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Bazaarvoice, Inc.**  
**Condensed Consolidated Statements of Cash Flows**  
**(in thousands)**  
**(unaudited)**

	<b>Three Months Ended July 31,</b>	
	<b>2017</b>	<b>2016</b>
<b>Operating activities:</b>		
Net loss	\$ (2,316)	\$ (5,105)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization expense	3,487	3,578
Stock-based expense	4,822	3,944
Bad debt expense (recovery)	79	(179)
Amortization of deferred financing costs	59	59
Other non-cash expense	(46)	(39)
Changes in operating assets and liabilities:		
Accounts receivable	(5,227)	1,749
Prepaid expenses and other current assets	804	(507)
Other non-current assets	(87)	869
Accounts payable	(461)	(2,616)
Accrued expenses and other current liabilities	(3,805)	(4,442)
Deferred revenue	2,979	2,974
Other liabilities, long-term	(16)	(156)
Net cash provided by operating activities	272	129
<b>Investing activities:</b>		
Purchases of property, equipment and capitalized internal-use software development costs	(2,332)	(2,760)
Purchases of short-term investments	(17,054)	(12,691)
Proceeds from maturities of short-term investments	18,214	15,010
Net cash used in investing activities	(1,172)	(441)
<b>Financing activities:</b>		
Proceeds from employee stock compensation plans	113	395
Payments on revolving line of credit	(5,000)	—
Net cash provided by (used in) financing activities	(4,887)	395
Effect of exchange rate fluctuations on cash and cash equivalents	309	(538)
Net change in cash and cash equivalents	(5,478)	(455)
Cash and cash equivalents at beginning of period	52,494	43,963
Cash and cash equivalents at end of period	\$ 47,016	\$ 43,508
<b>Supplemental disclosure of non-cash investing and financing activities:</b>		
Purchase of fixed assets recorded in accounts payable	\$ 402	\$ 83
Purchase of leasehold improvements funded by tenant improvement allowance	\$ 925	\$ —
Capitalized stock-based compensation	\$ 137	\$ 122

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Notes to Unaudited Condensed Consolidated Financial Statements**

**1. Organization and Nature of Operations**

Bazaarvoice, Inc. (“Bazaarvoice” or the “Company”) was founded on the premise that the collective voice of the consumer is the most powerful marketing tool in the world. The Company's solutions and services allow the Company's retailer and brand clients to understand that consumer voice and the role it plays in influencing purchasing decisions, both online and offline. The Company's solutions collect, curate and display consumer-generated content including ratings and reviews, questions and answers, customer stories, and social posts, photos, and videos. This content is syndicated and distributed across the Company's clients' marketing channels, including category/product pages, search terms, brand sites, mobile applications, in-store displays, and paid and earned advertising. This consumer-generated content enables the Company's clients to generate more revenue, market share, and brand affinity. The Company's solutions empower the Company's clients to leverage insights derived from consumer-generated content to improve marketing effectiveness, increase success of new product launches, improve existing products and services, effectively scale customer support, decrease product returns, reach consumers when actively shopping via highly targeted audience advertising, and enable retailers to launch and manage on-site advertising solutions and site monetization strategies.

**2. Summary of Significant Accounting Policies**

***Fiscal Year***

The Company's fiscal year end is April 30. References to fiscal year 2018 , for example, refer to the fiscal year ending April 30, 2018 .

***Basis of Presentation***

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States (“GAAP”) and applicable rules and regulations of the Securities and Exchange Commission (“SEC”) regarding interim financial reporting. Certain information and note disclosures normally included in the financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to such rules and regulations. Therefore, these unaudited condensed consolidated financial statements and notes included herein should be read in conjunction with the audited consolidated financial statements and notes included in the Company's Annual Report on Form 10-K for the fiscal year ended April 30, 2017 , filed on June 16, 2017. There have been no significant changes to the Company's accounting policies since April 30, 2017 .

The condensed consolidated balance sheet data as of April 30, 2017 was derived from the audited consolidated financial statements included in the Company's Annual Report on form 10-K for the fiscal year ended April 30, 2017 .

***Use of Estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. On an ongoing basis, the Company evaluates its estimates, including those related to revenue recognition, allowance for doubtful accounts, income taxes, stock-based expense, accrued liabilities, useful lives of property, equipment and capitalized software development costs, among others. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from the estimates made by management with respect to these items.

***Principles of Consolidation***

The accompanying condensed consolidated financial statements include the accounts of the Company and the accounts of the Company's wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated upon consolidation.

***Unaudited Interim Financial Information***

The accompanying unaudited condensed consolidated financial statements and notes have been prepared in accordance with GAAP, as contained in the Financial Accounting Standards Board (“FASB”) Accounting Standards Codification for interim financial information and Article 10 of Regulation S-X issued by the SEC. Accordingly, they do not include all the information and footnotes required by GAAP for annual fiscal reporting periods. In the opinion of management, the interim financial information includes all adjustments of a normal recurring nature necessary for a fair statement of the results of operations, financial position, changes in stockholders' equity and cash flows. The results of operations for the three months ended July 31, 2017 are not necessarily indicative of results that may be expected for the fiscal year ending April 30, 2018 or any other period.

### ***Foreign Currency Translation***

The U.S. dollar is the reporting currency for all periods presented. The functional currency of the Company's foreign subsidiaries is generally the local currency. All assets and liabilities denominated in a foreign currency are translated into U.S. dollars at the exchange rate on the balance sheet date. Revenue and expenses are translated at the average rate during the period. Equity transactions are translated using historical exchange rates. Adjustments resulting from translating foreign currency financial statements into U.S. dollars are included in accumulated other comprehensive gain (loss). Foreign currency transaction gains and losses are included in net loss for the period. Foreign currency losses, net of hedge gains, were immaterial for the three month periods ended July 31, 2017 and 2016.

### ***Derivative Financial Instruments***

As a result of the Company's international operations, it is exposed to various market risks, such as fluctuations in currency exchange rates, which may affect its consolidated results of operations, cash flows and financial position. The Company's primary foreign currency exposures are in Euros and British Pound Sterling. The Company faces exposure to adverse movements in currency exchange rates as the financial results of certain of its operations are translated from local currency into U.S. dollars upon consolidation. Additionally, foreign exchange rate fluctuations on transactions denominated in currencies other than the functional currency result in gains and losses that are reflected in income.

The Company may enter into derivative instruments to hedge certain net exposures of non-U.S. dollar-denominated assets and liabilities, even though it does not elect to apply hedge accounting or hedge accounting does not apply. Gains and losses resulting from a change in fair value of these derivatives are reflected in income in the period in which the change occurs and are recognized on the condensed consolidated statement of operations in other income (expense). Cash flows from these contracts are classified within net cash provided by operating activities on the condensed consolidated statements of cash flows.

The Company does not use financial instruments for trading or speculative purposes. The Company recognizes all derivative instruments on the balance sheet at fair value, and its derivative instruments are generally short-term in duration. Derivative contracts were not material as of July 31, 2017 and April 30, 2017. The Company is exposed to the risk that counterparties to derivative contracts may fail to meet their contractual obligations.

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

The carrying amounts of the Company's financial instruments, including cash equivalents, accounts receivable, accounts payable and accrued liabilities, approximate their respective fair values due to their short-term nature.

The Company applies the authoritative guidance on fair value measurements for financial assets and liabilities. The guidance defines fair value and increases disclosures surrounding fair value calculations. The guidance establishes a three-tiered fair value hierarchy that prioritizes inputs to valuation techniques used in fair value calculations. The three levels of inputs are defined as follows:

Level 1: Unadjusted quoted prices for identical assets or liabilities in active markets accessible by the Company.

Level 2: Inputs that are observable in the marketplace other than those inputs classified as Level 1.

Level 3: Inputs that are unobservable in the marketplace which require the Company to develop its own assumptions.

The valuation techniques used to determine the fair value of our financial instruments having Level 2 inputs are valued using unadjusted, non-binding market consensus prices that are corroborated by observable market data, quoted market prices for similar instruments, or pricing models. Our procedures include controls to ensure that appropriate fair values are recorded by a review of the valuation methods and assumptions. The Company did not hold any cash equivalents, restricted cash or short-term investments categorized as Level 3 as of July 31, 2017 or April 30, 2017.

### ***Goodwill Impairment***

In accordance with ASC Topic 350, "Intangibles-Goodwill and Other", the Company evaluates goodwill for impairment annually in the fourth fiscal quarter or more frequently if indicators of potential impairment arise, using the two-step method. Conditions that could trigger a more frequent impairment assessment include, but are not limited to, a significant adverse change in customer demand or business climate, significant underperformance relative to historical or projected future operating results, a significant reduction in our stock price for a sustained period or a reduction of the Company's market capitalization relative to the carrying value.

The Company performs step one of the test for impairment of goodwill by estimating and comparing the fair value of the Company's single reporting unit to its carrying value as of that date. The Company estimates fair value of its single reporting unit using a market approach, which includes consideration of the Company's market capitalization. If the fair value of the Company's single reporting unit is less than its carrying value, the second step of the test for impairment of goodwill, in which the Company compares the implied fair value of its reporting unit's goodwill with the carrying value of that goodwill, is performed. The estimate

## [Table of Contents](#)

of implied fair value of goodwill may require estimated fair values of individual assets and liabilities of the reporting unit, together with an estimate of the fair value of the reporting unit taken as a whole. If the carrying value of the goodwill exceeds the calculated implied fair value, the excess amount will be recognized as an impairment loss.

The estimates the Company makes in determining the fair value of its reporting unit involve the application of judgment, which could affect the timing and size of any future impairment charges. No goodwill impairment charges were recorded for any of the periods presented.

### ***Concentrations of Credit Risk and Significant Customers***

Financial instruments that potentially subject the Company to concentrations of credit risk consist of cash and cash equivalents and account receivables. The Company's cash and cash equivalents are placed with high-credit-quality financial institutions and issuers, and at times may exceed federally insured limits. The Company has not experienced any loss relating to cash and cash equivalents in these accounts to date. The Company maintains an allowance for doubtful accounts receivable balances, performs periodic credit evaluations of its clients and generally does not require collateral of its clients.

No single client accounted for 10% or more of accounts receivable as of July 31, 2017 or April 30, 2017. No single client accounted for 10% or more of total revenue for the three months ended July 31, 2017 or 2016.

### ***Revenue Recognition***

In general, the Company recognizes revenue when (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or services have been delivered to the client, (iii) the fee is fixed or determinable and (iv) collectability is reasonably assured. Amounts that have been invoiced are recorded in accounts receivable and in deferred revenue or revenue, depending on whether the revenue recognition criteria have been met.

The Company generates revenue primarily from sales of the following services:

#### *Software as a Service ("SaaS") Revenue:*

SaaS revenue includes subscription fees from clients accessing the Company's cloud-based social commerce solutions and application services pursuant to service agreements that typically vary in length from one to three years. Subscription and support revenue is recognized ratably over the term of the related agreement commencing upon the later of the agreement start date or when all revenue recognition criteria have been met. The client does not have the right to take possession of the software supporting the application service at any time, nor do the arrangements contain general rights of return.

#### *Professional and Managed Service Revenue:*

Professional and managed services consist of fees associated with assisting clients with the implementation of the Company's solutions, providing expert services that educate and assist clients on the best use of the Company's solutions and managing the collection of reviews. Professional and managed services are not required for clients to utilize the Company's solutions. The Company's professional and managed services contracts are offered on both a time and material basis and a project basis. Depending on the nature of the service, revenue is recognized upon completion or as the services are rendered.

#### *Advertising Revenue:*

Advertising revenue consists primarily of fees charged to advertisers when their advertisements are displayed on websites owned by various third-parties ("Publishers"). The Company receives a fee from the advertisers and pays the Publishers based on their contractual revenue-share agreements or average cost per thousand impressions delivered. Advertising revenue is recognized on a net basis as the Company has determined that it is acting as an agent in these transactions.

### **Multiple Element Arrangements**

Typically, the Company's SaaS revenue from new clients consists of agreements with multiple elements, comprised of subscription fees for the Company's products as well as professional and managed services. The Company evaluates each element in a multiple-element arrangement to determine whether it represents a separate unit of accounting. An element constitutes a separate unit of accounting when the delivered item has standalone value and delivery of the undelivered element is probable and within the Company's control. Various subscription-based products have standalone value because they are routinely sold separately by the Company. In determining whether professional and managed services can be accounted for separately from subscription services, the Company considered the availability of the services from other vendors, the nature of the Company's services, whether the service is required to utilize the Company's solutions and whether the Company sells its applications to new clients without the services.

If the deliverables have standalone value upon delivery, the Company accounts for each deliverable separately and revenue is recognized for the respective deliverables over the respective service period. If one or more of the deliverables does not have standalone value upon delivery, the deliverables that do not have standalone value are generally combined with the final deliverable within the arrangement and treated as a single unit of accounting. Revenue for arrangements treated as a single unit of accounting

## [Table of Contents](#)

is generally recognized over the period commencing upon delivery of the final deliverable and over the remaining term of the subscription contract.

The Company allocates revenue to each element in an arrangement based on a selling price hierarchy. The selling price for a deliverable is based on its vendor-specific objective evidence (“VSOE”), if available, third-party evidence (“TPE”), if VSOE is not available, or best estimated selling price (“BESP”), if neither VSOE nor TPE is available. Because the Company has been unable to establish VSOE or TPE for the elements of our arrangements, the Company allocates the arrangement fee to the separate units of accounting based on the Company’s best estimate of selling price. The Company determines BESP price for its deliverables based on the Company’s overall pricing objectives, discounting practices, the size and volume of the Company’s transactions, the client demographic, the Company’s price lists, the Company’s go-to-market strategy, historical standalone sales and contract prices. The determination of BESP is made through consultation with and approval by management, taking into consideration the go-to-market strategy. As the Company’s go-to-market strategies evolve, the Company may modify its pricing practices in the future, which could result in changes in relative selling prices, including both VSOE and BESP.

### ***Deferred Revenue***

Deferred revenue consists of billings or payments received in advance of revenue recognition and is recognized as the revenue recognition criteria are met. The Company invoices clients in a variety of installments and, consequently, the deferred revenue balance does not represent the total contract value of its non-cancelable subscription agreements. Deferred revenue that will be recognized during the succeeding 12-month period is recorded as current deferred revenue and the remaining portion is recorded as non-current deferred revenue.

### ***Recently Adopted Accounting Pronouncements***

#### *Improvements to Employee Share-Based Payment Accounting*

In March 2016, the FASB issued Accounting Standards Update 2016-09, “Improvements to Employee Share-Based Payment Accounting,” (“ASU 2016-09”) which requires excess tax benefits and tax deficiencies to be recorded in the income statement. In addition, cash flows related to excess tax benefits will no longer be separately classified as a financing activity apart from other income tax cash flows. The standard also allows entities to repurchase more of an employee’s shares for tax withholding purposes without triggering liability accounting, clarifies that all cash payments made on an employee’s behalf for withheld shares should be presented as a financing activity on the cash flow statement, and provides an accounting policy election to account for forfeitures as they occur. The Company adopted the standard in the first quarter of fiscal year 2018.

As required by the new standard, the Company now recognizes excess tax effects from share-based awards as a component of provision for income taxes in our statement of operations when awards vest or are settled. Upon adoption, we recorded a deferred tax asset of \$12.7 million to reflect, on a modified retrospective basis, the previously unrecognized excess tax benefits; however, the deferred tax asset was fully offset by a valuation allowance, resulting in no impact to our consolidated financial statements. In our statement of cash flows, excess tax benefits are no longer separately classified as financing activities. This change was made prospectively beginning in the first quarter of fiscal year 2018 and had no impact our statement of cash flows during the three month period ended July 31, 2017.

The Company also elected to account for forfeitures as they occur; therefore, share-based compensation expense for the three months ended July 31, 2017 have been calculated based on actual forfeitures in our consolidated statement of operations, rather than our previous approach which was net of estimated forfeitures. The cumulative-effect adjustment of this change on a modified retrospective basis was a \$0.3 million increase to the opening balances of accumulated deficit and additional paid in capital.

### ***Recently Issued Accounting Pronouncements***

#### *Simplifying the Accounting for Goodwill Impairment*

In January 2017, the FASB issued Accounting Standards Update 2017-04, “Intangibles - Goodwill and Other (Topic 350): Simplifying the Accounting for Goodwill Impairment,” (“ASU 2017-04”), which removes step two of the two-step quantitative goodwill impairment test, which requires a hypothetical purchase price allocation. Goodwill impairment will now be calculated as the amount by which a reporting unit’s carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. ASU 2017-04 is effective for annual and interim periods beginning after December 15, 2019, with early adoption permitted, and applied prospectively. The Company does not expect ASU 2017-04 to have a material impact on its consolidated financial statements.

## [Table of Contents](#)

### *Classification of Certain Cash Receipts and Cash Payments*

In August 2016, the FASB issued Accounting Standards Update 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments," ("ASU 2016-15") to clarify and provide specific guidance on eight cash flow classification issues that are not addressed by current GAAP and thereby reduce the current diversity in practice. The standard is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years and requires retrospective adoption. The Company does not expect the adoption to have a material impact on its consolidated financial statements and may consider early adoption, which is permitted in any interim or annual period.

### *Leases (Topic 842)*

In February 2016, the FASB issued Accounting Standards Update 2016-02, "Leases (Topic 842)," ("ASU 2016-02") which requires that lessees recognize assets and liabilities for leases with lease terms greater than twelve months in the statement of financial position. ASU 2016-02 also requires improved disclosures to help users of financial statements better understand the amount, timing and uncertainty of cash flows arising from leases. The standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. The standard must be adopted using a modified retrospective approach and early adoption is permitted. As a result of this new standard, the Company expects to record a lease commitment liability and corresponding asset for most of our leases. The Company is currently evaluating the full impact the adoption of ASU 2016-02 will have on its consolidated financial statements.

### *Revenue*

In May 2014, the FASB issued Accounting Standards Update 2014-09, "Revenue from Contracts with Customers," ("ASU 2014-09") which provides updated, comprehensive revenue recognition guidance for contracts with customers, including a new principles-based five step framework that eliminates much of the industry-specific guidance in current accounting literature. Under ASU 2014-09, revenue recognition is based on a core principle that companies recognize revenue in an amount consistent with the consideration it expects to be entitled to in exchange for the transfer of goods or services. The standards update also requires enhanced disclosures regarding the nature, amount, timing and uncertainty of recognized revenue. Since ASU 2014-09 was issued, several additional ASUs have been issued and incorporated within FASB Accounting Standards Codification 606 ("ASC 606") to clarify various elements of the guidance, including Accounting Standards Update 2015-14, "Revenue from Contracts with Customers," ("ASU 2015-14") which defers the effective date of ASU 2014-09 by one year. In accordance with the deferral, updated guidance will be effective for the Company's fiscal year ending April 30, 2019, including interim periods within that reporting period. Early adoption is permitted for annual periods beginning after December 15, 2016, the original effective date of ASU 2014-09.

While the Company is still evaluating the full impact of the pending adoption of ASU 2014-09 and related amendments on its consolidated financial statements, the Company anticipates adopting the standard using the modified retrospective methodology in the first quarter of fiscal 2019, with the cumulative effect of adoption recognized as of the date of initial application. Additionally, to date the Company has identified the following areas of anticipated impact based on its preliminary review of the standard:

- Under the new standard, the Company will be required to capitalize certain sales commissions that are incremental in obtaining the contract and amortize over the period of benefit. These costs are currently expensed.
- Under the new standard, the Company will be required to include enhanced financial statement disclosures related to revenue, including information related to the allocation of transaction price across undelivered performance obligations.

The Company has reviewed other new accounting pronouncements that were issued as of July 31, 2017 and does not believe that these pronouncements are applicable to the Company, or that they will have a material impact on its financial position or results of operations.

### **3. Fair Value of Financial Assets and Liabilities**

The following table summarizes the Company's cash and cash equivalents as of July 31, 2017 and April 30, 2017 (in thousands):

	<b>July 31, 2017</b>	<b>April 30, 2017</b>
Demand deposit accounts	\$ 39,509	\$ 46,164
Money market funds	3,660	3,532
Commercial paper	3,847	2,798
Total cash and cash equivalents	<u>\$ 47,016</u>	<u>\$ 52,494</u>

[Table of Contents](#)

The following table summarizes the Company's short-term investments as of July 31, 2017 (in thousands):

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Available-for-sale securities:				
Certificates of deposit	\$ 2,650	\$ —	\$ —	\$ 2,650
Commercial paper	5,556	—	—	5,556
U.S. government agency debt securities	22,088	—	(38)	22,050
Corporate debt securities	7,272	—	(6)	7,266
Total short-term investments	<u>\$ 37,566</u>	<u>\$ —</u>	<u>\$ (44)</u>	<u>\$ 37,522</u>

The following table summarizes the Company's short-term investments as of April 30, 2017 (in thousands):

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Available-for-sale securities:				
Certificates of deposit	\$ 1,930	\$ —	\$ —	\$ 1,930
Commercial paper	4,206	—	—	4,206
U.S. Treasury securities	8,705	—	(5)	8,700
U.S. government agency debt securities	16,733	—	(15)	16,718
Corporate debt securities	7,144	—	(9)	7,135
Total short-term investments	<u>\$ 38,718</u>	<u>\$ —</u>	<u>\$ (29)</u>	<u>\$ 38,689</u>

Realized and unrealized gains and losses on short-term investments were not material for the three months ended July 31, 2017 and 2016. An impairment charge is recorded in the consolidated statements of operations for declines in fair value below the cost of an individual investment that are deemed to be other-than-temporary. The Company assesses whether a decline in value is temporary based on the length of time that the fair market value has been below cost, the severity of the decline, as well as the intent and ability to hold, or plans to sell, the investment. There have been no impairment charges recognized related to short-term investments for the three months ended July 31, 2017 and 2016.

Actual maturities may differ from contractual maturities because some borrowers have the right to call or prepay obligations with or without call or prepayment penalties. We may sell these securities at any time for use in current operations or for other purposes, such as consideration for acquisitions, even if they have not yet reached maturity. As a result, we classify our investments, including securities with maturities beyond twelve months as current assets in the accompanying condensed consolidated balance sheets.

Contractual maturities of available-for-sale securities at July 31, 2017, were as follows (in thousands):

	Estimated Fair Value
Due in one year or less	36,567
Due in 1-2 years	955
Total investments in debt securities	<u>37,522</u>

## Table of Contents

The following table summarizes the fair value of the Company's financial assets and liabilities that were measured on a recurring basis as of July 31, 2017 and April 30, 2017 (in thousands):

	Fair Value Measurements at July 31, 2017				Fair Value Measurements at April 30, 2017			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
<b>Assets:</b>								
Cash equivalents:								
Money market funds	\$ 3,660	\$ —	\$ —	\$ 3,660	\$ 3,532	\$ —	\$ —	\$ 3,532
Commercial paper	—	3,847	—	3,847	—	2,798	—	2,798
Total cash equivalents	3,660	3,847	—	7,507	3,532	2,798	—	6,330
Short-term investments:								
Certificates of deposit	—	2,650	—	2,650	—	1,930	—	1,930
Commercial paper	—	5,556	—	5,556	—	4,206	—	4,206
U.S. Treasury securities	—	—	—	—	8,700	—	—	8,700
U.S. government agency securities	22,050	—	—	22,050	16,718	—	—	16,718
Corporate securities	—	7,266	—	7,266	—	7,135	—	7,135
Total short-term investments	22,050	15,472	—	37,522	25,418	13,271	—	38,689
Total assets	\$ 25,710	\$ 19,319	\$ —	\$ 45,029	\$ 28,950	\$ 16,069	\$ —	\$ 45,019

The Company measures certain assets, including property and equipment, goodwill and intangible assets, at fair value on a non-recurring basis. These assets are recognized at fair value when they are deemed to be impaired. The Company evaluates transfers between levels at the end of the fiscal year and assumes that any identified transfers are deemed to have occurred at the end of the reporting year. There were no transfers between levels in any of the periods presented.

#### 4. Acquired Intangible Assets, net

Acquired intangible assets, net, as of July 31, 2017 and April 30, 2017 are as follows (in thousands):

	July 31, 2017			April 30, 2017		
	Gross Fair Value	Accumulated Amortization	Net Book Value	Gross Fair Value	Accumulated Amortization	Net Book Value
Customer relationships	\$ 11,835	\$ (5,704)	\$ 6,131	\$ 11,835	\$ (5,395)	\$ 6,440
Developed technology	3,265	(2,151)	1,114	3,265	(1,988)	1,277
Total	\$ 15,100	\$ (7,855)	\$ 7,245	\$ 15,100	\$ (7,383)	\$ 7,717

The amortization of customer relationships is recorded as amortization expense and the amortization for developed technology is amortized to cost of revenue.

The following table presents our estimate of future amortization expense for definite-lived intangible assets (in thousands):

Fiscal period:	Amount
Remaining nine months of fiscal year 2018	\$ 1,418
Fiscal year 2019	1,856
Fiscal year 2020	1,130
Fiscal year 2021	1,130
Fiscal year 2022	1,130
Thereafter	581
Total	\$ 7,245

## 5. Income Taxes

The Company computes its interim provision for income taxes by applying the estimated annual effective tax rate to income from operations and adjusts the provision for discrete tax items occurring in the period. For all periods presented, the Company was in a domestic net operating loss position, as such all income tax expenses incurred during the periods presented relate to foreign and state jurisdictions. The Company's effective tax rate for the three months ended July 31, 2017 was an expense of 5.7 percent compared to an expense of 2.7 percent for the three months ended July 31, 2016. The tax expense for the three months ended July 31, 2017 was primarily attributable to estimated foreign and state income tax expense with a partial offset from the income tax benefit from research and development credits provided by the State of Texas. The tax expense for the three months ended July 31, 2016 was primarily attributable to estimated foreign and state income tax expense.

## 6. Restructuring Charges

### Fiscal 2016 Restructuring

In February 2016, the Company made the decision to suspend sales of its BV Local product, reduce its cost structure to improve operating efficiencies and align resources with its growth strategies. Costs associated with these restructuring activities included workforce reduction charges, and facilities charges related to the loss recorded on the sub-lease of excess office space at the Company's headquarters and the sub-lease of the Company's San Francisco office.

The Company recorded pre-tax charges of approximately \$0.3 million related to the fiscal 2016 restructuring during the three month period ended July 31, 2016. The Company recorded cumulative charges of \$2.7 million through fiscal year 2017 related to the fiscal 2016 restructuring and does not expect to record any additional charges related to this restructuring.

### Fiscal 2017 Restructuring

In April 2017, the Company reduced its advertising sales expenses to better align with the Company's growth expectations and reduced organization layers to streamline operations. Costs associated with these restructuring activities consisted of severance and related costs. Pre-tax charges related to the fiscal 2017 restructuring were immaterial for the three month period ended July 31, 2017. The Company recorded charges of \$1.2 million through July 31, 2017 related to the fiscal 2017 restructuring and does not expect to record any additional charges related to this restructuring.

The Company's restructuring activities for the three months ended July 31, 2017 and 2016 are summarized as follows (in thousands):

	Workforce Reduction	Excess Facilities	Total
Balance at April 30, 2016	\$ 497	\$ 546	\$ 1,043
Restructuring charges	327	—	327
Payments	(341)	(129)	(470)
Balance at July 31, 2016	<u>\$ 483</u>	<u>\$ 417</u>	<u>\$ 900</u>
Balance at April 30, 2017	\$ 1,108	\$ 299	\$ 1,407
Restructuring charges	40	—	40
Payments	(1,148)	(13)	(1,161)
Non-cash settlements of restructuring charges	—	(24)	(24)
Balance at July 31, 2017	<u>\$ —</u>	<u>\$ 262</u>	<u>\$ 262</u>

Expenses recorded related to these restructuring activities are included in the "Restructuring charges" line item in our consolidated statement of operations.

## 7. Debt

### *Credit Facility*

On July 18, 2007, the Company entered into a loan and security agreement with Comerica Bank which was most recently amended and restated on November 21, 2014. The Amended and Restated Credit Facility (the "Credit Facility") provides for a secured, revolving line of credit of up to \$70.0 million, with a sublimit of \$3.0 million for the incurrence of swingline loans and a sublimit of \$15.0 million for the issuance of letters of credit. Borrowings under the Credit Facility are collateralized by substantially all assets of the Company and of its U.S. subsidiaries. The revolving line of credit bears interest at the adjusted LIBOR rate plus 3.5%. Availability under the Credit Facility was \$33.1 million as of July 31, 2017. The Company had letters of credit outstanding of \$9.9 million as of July 31, 2017. The Credit Facility expires on November 21, 2017 with all advances immediately due and payable. The Company was in compliance with all covenants contained in the Credit Facility as of July 31, 2017.

The Company incurred \$0.7 million of fees in connection with the Amended and Restated Credit Facility which were capitalized and are being amortized to interest expense using the straight-line method, which approximates the effective interest method, over the life of the Credit Facility.

During the three months ended July 31, 2017 the Company paid \$5.0 million on the balance outstanding under its Credit Facility, reducing the Company's outstanding debt to \$27.0 million. The carrying value of the Company's debt approximates its fair value.

Subsequent to July 31, 2017 the Company paid \$5.0 million on the balance outstanding under its Credit Facility, reducing the Company's outstanding debt to \$22.0 million.

## 8. Net Loss Per Share

The following table sets forth the computations of net loss per share applicable to common stockholders for the three months ended July 31, 2017 and 2016, respectively (in thousands, except net loss per share data):

	Three Months Ended July 31,	
	2017	2016
Net loss	\$ (2,316)	\$ (5,105)
Basic and diluted loss per share	\$ (0.03)	\$ (0.06)
Basic and diluted weighted average number of shares outstanding	84,663	82,214
Potentially dilutive securities <sup>(1)</sup> :		
Outstanding stock options	485	132
Restricted shares	1,278	47

(1) The impact of potentially dilutive securities on earnings per share is anti-dilutive in a period of net loss.

## 9. Commitments and Contingencies

### *Legal Matters*

In the ordinary course of business, the Company may be subject to various legal proceedings and claims including alleged infringement of third-party patents and other intellectual property rights. The Company reviews the status of each matter and records a provision for a liability when it is considered both probable that a liability has been incurred and that the amount of the loss can be reasonably estimated. Legal fees incurred in connection with loss contingencies are recognized as incurred when the legal services are provided, and therefore are not recognized as a part of a loss contingency accrual. These provisions are reviewed quarterly and adjusted as additional information becomes available. We are not presently a party to any legal proceedings that in the opinion of our management would have a material adverse effect on our business, financial condition, operating results or cash flows. 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.

### *Other Contingencies*

The Company is subject to audit in various jurisdictions, and such jurisdictions may assess additional income and sales tax liabilities against us. Although we believe our tax estimates are reasonable, the final outcome of tax audits and any related litigation could be materially different from our historical income and sales tax provisions and accruals. Developments in an audit or litigation could have a material effect on our operating results or cash flows in the period or periods for which that development occurs, as well as for prior and subsequent periods.

***Other Commitments***

The Company has contractual obligations for third-party technology used in the Company's solutions and for other services the Company purchases as part of normal operations. In certain cases, these arrangements require a minimum annual purchase commitment. As of July 31, 2017, the remaining aggregate minimum purchase commitment under these arrangements was approximately \$20.3 million through fiscal year 2020.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

**Forward Looking Statements**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our unaudited condensed consolidated financial statements and the notes thereto appearing elsewhere in this Quarterly Report on Form 10-Q and our other filings with the Securities and Exchange Commission ("SEC"), including our Annual Report on Form 10-K for the fiscal year ended April 30, 2017, filed on June 16, 2017. In addition to historical information, this Quarterly Report on Form 10-Q contains "forward-looking statements" within the meaning of Section 27A of the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements may be identified by the use of forward-looking words such as "anticipate," "believe," "may," "will," "continue," "seek," "estimate," "intend," "hope," "predict," "could," "should," "would," "project," "plan," "expect" or the negative or plural of these words or similar expressions, although not all forward-looking statements contain these words. Statements that contain these words should be read carefully because they discuss our future expectations, contain projections of our future results of operations or of our financial position, or state other forward-looking information. Factors that can cause actual results to differ materially from those reflected in the forward-looking statements include, among others, those discussed in the "Risk Factors" section of our Annual Report on Form 10-K for the year ended April 30, 2017. We urge you not to place undue reliance on these forward looking statements, which reflect management's analysis, judgment, belief or expectation only as of the date hereof. We expressly disclaim any obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise, except as required by applicable securities laws and regulations. Historical results are not necessarily indicative of the results expected for any future period.*

Factors or risks that could cause our actual results to differ materially from the results we anticipate include, but are not limited to:

- our ability to develop and launch new products and the market's acceptance of such new products;
- our ability to retain and sell additional solutions to clients and satisfy their obligations and needs;
- our ability to maintain pricing for our products and services;
- our ability to attract new clients and launch without delays;
- our ability to increase adoption of our platforms by our clients' internal and external users;
- our ability to protect our users' information and adequately address security and privacy concerns;
- our ability to maintain an adequate rate of growth and control expenses;
- our ability to effectively execute and adapt our business model in a dynamic market;
- our ability to reduce our cost structure and improve operating efficiencies;
- our future expenses;
- our ability to expand our network;
- our ability to integrate clients, employees and operations of acquired companies into our business;
- our ability to earn revenue on ads served based on data accumulated from our network;
- our ability to timely and effectively scale and adapt our existing technology and network infrastructure;
- our plan to continue investing in long-term growth and research and development, enhancing our platforms and pursuing strategic acquisitions of complementary businesses and technologies to drive future growth;
- our ability to increase engagement of our solutions by new and existing clients, partners and professional organizations and launch those solutions without delay;
- our anticipated trends of our operating metrics and financial and operating results;
- the effects of increased competition and commoditization of products we offer, including pricing pressure, reduced profitability or loss of market share;
- our ability to maintain profit margins on our products;
- our ability to maintain our mix of recurring revenue versus non-recurring revenue;
- our ability to successfully enter new markets and sell our products internationally;
- our ability to maintain, protect and enhance our brand and intellectual property;
- changes in accounting standards;
- the impact of the Department of Justice stipulation regarding PowerReviews on our business;
- the attraction and retention of qualified employees and key personnel;
- our expectations regarding the outcome of litigation proceedings; and
- other risk factors included under "Risk Factors" in our Annual Report on Form 10-K for the year ended April 30, 2017.

## [Table of Contents](#)

The outcome of the events described in these forward-looking statements is subject to known and unknown risks, uncertainties and other factors that could cause actual results to differ materially from our forward-looking statements, including those factors discussed in Part I, Item 1A. "Risk Factors" in our Annual Report on Form 10-K for our fiscal year ended April 30, 2017 and other risks and uncertainties detailed in this and our other reports and filings with the SEC. The forward-looking statements in this Quarterly Report on Form 10-Q represent our views as of the date of this Quarterly Report on Form 10-Q. We anticipate that subsequent events and developments may cause our views to change. However, while we may elect to update these forward-looking statements at some point in the future, we have no current intention of doing so except to the extent required by applicable law. You should, therefore, not rely on these forward-looking statements as representing our views as of any date subsequent to the date of this Quarterly Report on Form 10-Q.

### **Overview**

Bazaarvoice was founded on the premise that the collective voice of the consumer is the most powerful marketing tool in the world. Our solutions and services allow our retailer and brand clients to understand that consumer voice and the role it plays in influencing purchasing decisions, both online and offline. Our solutions collect, curate, and display consumer-generated content including ratings and reviews, questions and answers, customer stories, and social posts, photos, and videos. This content is syndicated and distributed across our clients' marketing channels, including category/product pages, search terms, brand sites, mobile applications, in-store displays, and paid and earned advertising. This consumer-generated content enables our clients to generate more revenue, market share, and brand affinity. Our solutions are designed to empower our clients to leverage insights derived from consumer-generated content to improve marketing effectiveness, increase success of new product launches, improve existing products and services, effectively scale customer support, decrease product returns, reach consumers when actively shopping via highly targeted audience advertising, and enable retailers to launch and manage on-site advertising solutions and site monetization strategies.

For the three months ended July 31, 2017, through the continued enhancement and expansion of our social commerce solutions, we achieved continued growth in our number of active SaaS clients (as defined in "Key Business Metrics" below), which increased 9.1% to 1,524 compared to the three months ended July 31, 2016. Our revenue was \$52.2 million and \$50.1 million for the three months ended July 31, 2017, which represents a 4.1% increase from the three months ended July 31, 2016, respectively.

As of July 31, 2017, we had 763 full-time employees compared to 744 full-time employees as of the same date last year. During the first quarter of fiscal 2018 we updated our definition of full-time employees to exclude temporary contractors. All prior year amounts have been updated to conform to the current definition.

### **Business Model**

Our business model focuses on adding new clients and maximizing the lifetime value of such client relationships. We make significant investments in acquiring new clients and believe that we will be able to achieve a favorable return on these investments by growing our relationships over time and ensuring that we have a high level of client retention.

The majority of our revenue is generated from the sale of SaaS subscriptions to our hosted social commerce solutions and related professional and managed services. In connection with the acquisition of new clients, we incur and recognize significant upfront costs. These costs include sales and marketing costs, such as costs associated with generating client agreements, and sales commission expenses that are recognized fully in the period in which we execute a client contract. In addition, we incur implementation and other costs which are generally recognized in periods prior to recognizing revenue. We recognize SaaS subscription revenue ratably over the entire term of those contracts, which commences when the client is able to begin using our solution, and professional and managed services revenue is recognized upon either completion or as the services are rendered depending on the nature of the service. Although we expect each client to be profitable for us over the duration of our relationship, the costs we incur with respect to any client relationship may exceed revenue in earlier periods because we recognize those costs in advance of the recognition of revenue. As a result, an increase in the mix of new clients as a percentage of total clients will initially have a negative impact on our operating results. On the other hand, we expect that a decrease in the mix of new clients as a percentage of total clients will initially have a positive impact on our operating results. Additionally, some clients pay in advance of recognition of revenue and, as a result, our cash flow from these clients may exceed the amount of revenue recognized for those clients in earlier periods of our relationship. As we depend on third-party Internet-hosting providers to operate our business, increased computing and storage consumption by some of our customers can increase our hosting costs and impact our gross margins.

In addition, our solutions enable our clients to monetize the value of shopper data generated from our SaaS products through targeted advertising based on online and offline shopping behavior. Our Advertising revenue is generated from client campaigns that are generally executed over a one to three month timeframe.

## [Table of Contents](#)

### Key Business Metrics

In addition to macroeconomic trends affecting the demand for our solutions, management regularly reviews a number of key financial and operating metrics to evaluate our business, determine the allocation of our resources, make decisions regarding corporate strategies and evaluate forward-looking projections and trends affecting our business. The following table summarizes our key business metrics for continuing operations:

	Three Months Ended July 31,	
	2017	2016
	(in thousands, except number of clients and client retention rate)	
Revenue:		
SaaS and related services	\$ 49,323	\$ 47,799
Advertising (previously referred to as media)	2,835	2,294
Total revenue	\$ 52,158	\$ 50,093
Cash flow provided by operations	\$ 272	\$ 129
Number of active SaaS clients (period end)	1,524	1,397
Active SaaS client retention rate <sup>(1)</sup>	95.9%	95.2%
Total revenue per employee <sup>(2)</sup>	\$ 68.7	\$ 67.2
Adjusted EBTIDA	\$ 6,701	\$ 3,914

(1) Calculated based on active SaaS client retention over a three month period.

(2) Calculated based on the average number of full-time employees for the three month period. During the first quarter of fiscal 2018 we updated our definition of full-time employees to exclude temporary contractors. All prior year amounts have been updated to conform to the current definition.

### Revenue

SaaS revenue consists primarily of fees from the sale of subscriptions to our hosted social commerce solutions, and we generally recognize such revenue ratably over the related subscription period, which is typically from one to three years. SaaS revenue also includes professional and managed services fees associated with providing expert services that educate and assist clients on the best use of our SaaS solutions and assist in the implementation of these solutions. Professional and managed services revenue is recognized upon completion or as the services are rendered, depending upon the nature of the service. We regularly review our revenue and revenue growth rate to measure our success. We believe that trends in revenue are important to understanding the overall health of our marketplace, and we use these trends in order to formulate financial projections and make strategic business decisions.

Advertising revenue consists primarily of fees charged to advertisers when their advertisements are displayed on publishers' websites and is net of amounts paid to such publishers.

### Cash Flow Provided By Operations

Cash flow provided by operations is the cash provided by the normal course of business and is measured prior to the impact of investing or financing activities. Due to the fact that we incur a significant amount of upfront costs associated with the acquisition of new clients with revenue recognized over an extended period, we consider cash flow provided by operations to be a key measure of our operating performance.

### Number of Active SaaS Clients

We define an active SaaS client as an organization with which we have an annual, or longer, contract, or extension of such contract, to provide one or more of our hosted social commerce solutions pursuant to which we are recognizing revenue as of the last day of the quarter, and we count organizations that are closely related as one active client, even if they have signed separate contractual agreements.

### Active SaaS Client Retention Rate

Active client retention rate is calculated based on the number of active clients at period end that were also active clients at the start of the period divided by the number of active clients at the start of the period. We believe that our ability to retain our active clients and expand their use of our solutions over time is a leading indicator of the stability of our revenue base and the long-term value of our client relationships.

***Total Revenue per Employee***

Revenue per employee is calculated as revenue recognized during the period divided by the average number of full-time employees for the period. We believe revenue per employee is a leading indicator of our productivity and operating leverage. The growth of our business is dependent on our ability to hire the talented people we require to effectively capitalize on our market opportunity and scale with growth while maintaining a high level of client service.

***Adjusted EBITDA***

We define Adjusted EBITDA as generally accepted accounting principles (“GAAP”) net loss from continuing operations adjusted for stock-based expense (net of capitalized stock-based compensation related to development of internal-use software), contingent consideration related to acquisitions, depreciation and amortization (including amortization of capitalized internal-use software development costs), restructuring charges, integration and other costs related to acquisitions, other non-business costs and benefits, income tax expense and other (income) expense, net.

Adjusted EBITDA is a financial measure that is not calculated in accordance with GAAP and should not be considered as an alternative to net loss or income, operating loss or income or any other measure of financial performance calculated and presented in accordance with GAAP. Our Adjusted EBITDA may not be comparable to similarly titled measures of other organizations because other organizations may not calculate Adjusted EBITDA in the same manner. We prepare Adjusted EBITDA to eliminate the impact of certain non-cash charges and items that we do not consider indicative of our core operating performance. You are encouraged to evaluate these adjustments and the reasons we consider them appropriate.

We believe Adjusted EBITDA is useful to investors in evaluating our operating performance for the following reasons:

- Adjusted EBITDA is widely used by investors and securities analysts to measure a company’s operating performance without regard to items, such as stock-based expense, depreciation and amortization, acquisition costs, income tax expense and other income, net, that can vary substantially from company to company depending upon their financing, capital structures and the method by which assets were acquired;
- Our management uses Adjusted EBITDA in conjunction with GAAP financial measures for planning purposes, including the preparation of our annual operating budget, as a measure of operating performance and the effectiveness of our business strategies and in communications with our board of directors concerning our financial performance;
- Adjusted EBITDA provides consistency and comparability with our past financial performance, facilitates period-to-period comparisons of operations and also facilitates comparisons with other peer companies, many of which use similar non-GAAP financial measures to supplement their GAAP operating results; and
- Our investor and analyst presentations include Adjusted EBITDA as a supplemental measure to evaluate our overall operating performance.

We understand that although Adjusted EBITDA is frequently used by investors and securities analysts in their evaluations of companies, Adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results of operations as reported under GAAP. These limitations include:

- Depreciation and amortization are non-cash charges, and the assets being depreciated or amortized will often have to be replaced in the future; Adjusted EBITDA does not reflect any cash requirements for these replacements;
- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs or contractual commitments;
- Adjusted EBITDA does not reflect cash requirements for income taxes and the cash impact of other income; and
- Other companies in our industry may calculate Adjusted EBITDA differently than we do, limiting its usefulness as a comparative measure.

## [Table of Contents](#)

The following table presents a reconciliation of net loss, the most comparable GAAP measure, to Adjusted EBITDA for each of the periods indicated:

	Three Months Ended July 31,	
	2017	2016
	(in thousands)	
GAAP net loss	\$ (2,316)	\$ (5,105)
Stock-based expense	4,822	3,944
Depreciation and amortization	3,487	3,578
Restructuring charges	40	327
Acquisition-related and other expense	261	176
Income tax expense	124	135
Total other expense, net	283	859
Adjusted EBITDA	<u>\$ 6,701</u>	<u>\$ 3,914</u>

### Key Components of Our Condensed Consolidated Statements of Operations

#### Revenue

We generate revenue principally from fixed commitment subscription contracts under which we provide clients with various services, including access to our hosted software platforms, as well as professional and managed services fees associated with providing expert services that educate and assist clients on the best use of our SaaS solutions and assist in the implementation of these solutions. For agreements with multiple elements, we evaluate each element in the arrangement to determine whether it represents a separate unit of accounting and recognize the allocated revenue for each unit of accounting over the respective service period. We sell these services under contractual agreements for service terms that are generally one to three years in length. Clients typically commit to fixed rate fees for the service term. Any billings that do not meet the revenue recognition criteria are recorded as deferred revenue on our balance sheet. We invoice clients on varying billing cycles, including annually, quarterly and monthly; therefore, our deferred revenue balance does not represent the total contract value of our non-cancelable subscription agreements. Fees payable under these agreements are generally due in full within 30 to 90 days of invoicing and are non-refundable regardless of the actual use of the services and contain no general rights of return. No single client accounted for more than 10% of our revenue for the three months ended July 31, 2017 and 2016.

We expect competitive pressure and price-based competition to continue to impact our SaaS revenue and client retention rates. Future SaaS revenue growth will be dependent upon our ability to sell new subscription while limiting the adverse impact of competitive pressures on revenue per client and client retention. We expect the improvements in our active SaaS client retention rate achieved in fiscal 2017 to have a positive impact on SaaS revenue growth in fiscal 2018.

#### Cost of Revenue

Cost of revenue consists primarily of personnel costs and related expenses associated with employees and contractors who provide our subscription services, our implementation team, our content moderation teams and other support services provided as part of the fixed commitment subscription contracts. Cost of revenue also includes professional fees, including third-party implementation support, travel-related expenses and an allocation of general overhead costs. We allocate general overhead expenses to all departments based on the number of employees in each department, which we consider to be a fair and representative means of allocation and, as such, general overhead expenses, including depreciation and facilities costs, are reflected in our cost of revenue. Personnel costs include salaries, benefits, bonuses and stock-based expense. We generally invest in increasing our capacity, particularly in the areas of implementation and support, ahead of the growth in revenue, which can result in lower margins in a given investment period.

Cost of revenue also includes hosting costs, the amortization of capitalized internal-use software development costs incurred in connection with our hosted software solutions and third-party service costs to support and retain our clients.

We intend to continue to invest resources in our client services teams and in the capacity of our hosting service infrastructure due to increases in the volume of consumer generated content on our network and, as we continue to invest in technology innovation through our research and development organization. The level and timing of investment in these areas could affect our cost of revenue, both in terms of absolute dollars and as a percentage of revenue in the future.

### ***Operating Expenses***

We classify our operating expenses into six categories: sales and marketing; research and development; general and administrative; restructuring charges; acquisition-related and other; and amortization of acquired intangible assets. In each category, our operating expenses consist primarily of personnel costs, program expenses, professional fees, travel-related expenses and an allocation of our general overhead expenses, as applicable.

*Sales and marketing* . Sales and marketing expenses consist primarily of personnel costs for our sales, marketing and business development employees and executives, including salaries, benefits, stock-based expense, bonuses and commissions earned by our sales personnel. Sales and marketing also includes non-personnel costs such as professional fees, an allocation of our general overhead expenses and the costs of our marketing and brand awareness programs. Our marketing programs include our Client Summits, regional user groups, corporate communications, public relations and other brand building and product marketing expenses. We expense sales commissions when a client contract is executed. We plan to continue investing in sales and marketing by focusing our marketing efforts on direct sales support and pipeline generation, which we believe will enable us to add new clients and increase penetration within our existing client base. For fiscal 2018, we expect sales and marketing expense to decrease year over year as a percentage of revenue compared to fiscal 2017 partially as a result of the restructuring activities we committed to in April 2017 as described in 'Restructuring charges' below. Sales and marketing expense is expected to continue to be our largest operating expense for the foreseeable future.

*Research and development* . Research and development expenses consist primarily of personnel costs for our product development employees and executives, including salaries, benefits, stock-based expense and bonuses. Also included are non-personnel costs such as professional fees payable to third-party development resources and an allocation of our general overhead expenses. A substantial portion of our research and development efforts are focused on enhancing our software architecture and adding new features and functionality to our platforms to address social and business trends as they evolve. We are also dedicating a larger portion of our research and development spending to our efforts to leverage data that we and our clients collect and manage through the use of our solutions. Research and development expenses are expected to remain relatively constant as a percentage of revenue for fiscal 2018 compared to fiscal 2017.

*General and administrative* . General and administrative expenses consist primarily of personnel costs, including salaries, benefits, stock-based expense and bonuses for our administrative, legal, human resources, finance, accounting and information technology employees and executives. Also included are non-personnel costs, such as travel-related expenses, professional fees, bad debt expense and other corporate expenses, along with an allocation of our general overhead expenses. We will continue to incur incremental costs to meet the increased compliance requirements associated with being a public company. Those costs include increases in our accounting and legal personnel, additional consulting, legal, audit and tax fees, insurance costs, board of directors' compensation and the costs of achieving and maintaining compliance with Section 404 of the Sarbanes-Oxley Act. General and administrative expenses as a percentage of revenue are expected to remain relatively consistent for fiscal 2018 compared to fiscal 2017.

*Restructuring charges*. In February 2016, we made the decision to suspend sales of our BV Local product, reduce our cost structure to improve operating efficiencies and align resources with our growth strategies. Costs associated with these restructuring activities include workforce reductions charges, and facilities charges related to the loss recorded on the sub-lease of excess office space at our headquarters. In addition, in April 2017 we reduced our sales expenses to better align with our growth expectations and reduced organization layers to streamline operations. We do not expect to record any additional significant charges related to these restructuring activities.

*Acquisition-related and other*. Acquisition-related and other expenses consist of ongoing costs to comply with our obligations resulting from the divestiture of the PowerReviews business. Included in "acquisition-related and other expenses" are legal and advisory fees for the U.S. Department of Justice suit related to our acquisition of PowerReviews.

*Amortization of acquired intangible assets*. The amortization of acquired intangible assets represents amortization of acquired customer relationship intangible assets from FeedMagnet and Longboard Media.

### ***Other Expense, Net***

Other expense, net consists primarily of interest income, interest expense related to our revolving line of credit, foreign exchange gains and losses and the resulting gain or loss from foreign exchange contracts. Interest income represents interest received on our cash and short-term investments. Foreign exchange gains and losses arise from revaluations of foreign currency denominated monetary assets and liabilities and are partially offset by the change in market value of our foreign exchange contracts.

***Income Tax Expense***

As a result of our current net operating loss position in the United States, income tax expense consists primarily of corporate income taxes resulting from profits generated in foreign jurisdictions by wholly-owned subsidiaries, along with state income taxes payable in the United States. We expect our income tax expense to increase in the future if we become profitable both in the United States and in foreign jurisdictions.

## [Table of Contents](#)

### Results of Operations

The following tables set forth our results of operations for the specified periods. The period-to-period comparisons of results of operations are not necessarily indicative of results for future periods.

	Three Months Ended July 31,	
	2017	2016
	(in thousands)	
Revenue	\$ 52,158	\$ 50,093
Cost of revenue <sup>(1)</sup>	19,765	18,756
Gross profit	32,393	31,337
Operating expenses:		
Sales and marketing <sup>(1)</sup>	14,604	15,304
Research and development <sup>(1)</sup>	10,503	11,073
General and administrative <sup>(1)</sup>	8,585	8,259
Restructuring charges	40	327
Acquisition-related and other	261	176
Amortization of acquired intangible assets	309	309
Total operating expenses	34,302	35,448
Operating loss	(1,909)	(4,111)
Total other expense, net	(283)	(859)
Loss before income taxes	(2,192)	(4,970)
Income tax expense	124	135
Net loss	\$ (2,316)	\$ (5,105)
<b>Other Financial Data:</b>		
Adjusted EBITDA <sup>(2)</sup>	\$ 6,701	\$ 3,914

(1)

Includes stock-based expense as follows:		
Cost of revenue	\$ 567	\$ 344
Sales and marketing	1,067	580
Research and development	1,080	1,053
General and administrative	2,108	1,967

(2) See “Key Business Metrics-Adjusted EBITDA” above for a reconciliation of net loss to Adjusted EBITDA.

## [Table of Contents](#)

The following table sets forth our results of operations for the specified periods as a percentage of revenue. The period-to-period comparisons of results are not necessarily indicative of results for future periods.

### Consolidated Statements of Operations Data:

	Three Months Ended July 31,	
	2017	2016
Revenue	100.0 %	100.0 %
Cost of revenue <sup>(1)</sup>	37.9	37.4
Gross profit	62.1	62.6
Operating expenses:		
Sales and marketing <sup>(1)</sup>	28.0	30.6
Research and development <sup>(1)</sup>	20.1	22.1
General and administrative <sup>(1)</sup>	16.5	16.5
Restructuring charges	0.1	0.7
Acquisition-related and other	0.5	0.3
Amortization of acquired intangible assets	0.6	0.6
Total operating expenses	65.8	70.8
Operating loss	(3.7)	(8.2)
Total other expense, net	(0.5)	(1.7)
Loss before income taxes	(4.2)	(9.9)
Income tax expense	0.2	0.3
Net loss	(4.4)%	(10.2)%
<b>Other Financial Data:</b>		
Adjusted EBITDA	12.8 %	7.8 %
(1) Includes stock-based expense as follows:		
Cost of revenue	1.1 %	0.7 %
Sales and marketing	2.0 %	1.2 %
Research and development	2.1 %	2.1 %
General and administrative	4.0 %	3.9 %

### Comparison of the Three Months Ended July 31, 2017 and 2016

#### Revenue

	Three Months Ended July 31,		
	2017	2016	% Change
	(dollars in thousands)		
Revenue	\$ 52,158	\$ 50,093	4.1%

Our revenue increased \$2.1 million, or 4.1%, for the three months ended July 31, 2017 compared to the three months ended July 31, 2016. The increase in revenue consisted of a \$1.5 million, or 3.1%, increase in SaaS revenue and a \$0.6 million, or 23.4%, increase in Advertising revenue.

The \$1.5 million increase in SaaS revenue, consisted primarily of a \$2.2 million increase in revenue from professional and managed services, partially offset by a decrease in revenue from annual SaaS subscription fees.

Advertising revenue increased \$0.6 million due to increased demand for our shopper advertising solutions driven by campaigns for new clients and growth in expenditures from existing clients.

### Cost of Revenue and Gross Profit Percentage

	Three Months Ended July 31,		
	2017	2016	% Change
	(dollars in thousands)		
Cost of revenue	\$ 19,765	\$ 18,756	5.4%
Gross profit	32,393	31,337	3.4
Gross profit percentage	62.1%	62.6%	

Cost of revenue increased \$1.0 million , or 5.4% , for the three months ended July 31, 2017 compared to the three months ended July 31, 2016 . The increase in cost of revenue was primarily due to a \$0.5 million increase in personnel-related costs as a result of increased headcount and a \$0.5 million increase in consulting and other corporate expenses.

### Operating Expenses

	Three Months Ended July 31,				
	2017		2016		% Change
	Amount	% of Revenue	Amount	% of Revenue	
	(dollars in thousands)				
Sales and marketing	\$ 14,604	28.0%	\$ 15,304	30.6%	(4.6)%
Research and development	10,503	20.1	11,073	22.1	(5.1)
General and administrative	8,585	16.5	8,259	16.5	3.9
Restructuring charges	40	0.1	327	0.7	(87.8)
Acquisition-related and other	261	0.5	176	0.3	48.3
Amortization of acquired intangible assets	309	0.6	309	0.6	—
Total operating expenses	\$ 34,302	65.8%	\$ 35,448	70.8%	(3.2)%

*Sales and marketing* . Sales and marketing expenses decreased by \$0.7 million , or 4.6% , for the three months ended July 31, 2017 compared to the same period in 2016 primarily as a result of a \$0.6 million decrease in personnel costs related to the Company's April 2017 restructuring activities (see "Restructuring Costs" in the "Overview" section above and Note 6 to our consolidated financial statements for further discussion). In addition, travel related expenses decreased \$0.3 million and other corporate expenses decreased \$0.3 million compared to the same period in 2016 . These increases were partially offset by a \$0.5 million increase in stock based compensation expense related to new grants.

*Research and development* . Research and development expenses decreased by \$0.6 million , or 5.1% , for the three months ended July 31, 2017 compared to the same period in 2016 primarily as a result of decreased personnel-related expenses resulting from restructuring related headcount reductions (see "Restructuring Costs" in the "Overview" section above and Note 6 to our consolidated financial statements for further discussion).

*General and administrative* . General and administrative expenses increased \$0.3 million , or 3.9% , for the three months ended July 31, 2017 compared to the same period in 2016 primarily as a result of a reduction in bad debt recovery.

*Restructuring charges* . Restructuring charges for the three months end July 31, 2017 consisted of severance and related costs related to the Company's restructuring activities initiated during the fourth quarter of fiscal 2017. The Company does not anticipate incurring any further charges related to this restructuring. The \$0.3 million in restructuring cost incurred during the three months ended July 31, 2016 consisted of severance and related costs related to the Company's restructuring activities initiated during the fourth quarter of fiscal 2016. These restructuring activities were completed during the second quarter of fiscal 2017. See Note 6, Restructuring Charges, to the Consolidated Financial Statements for further discussion regarding our restructuring activities.

*Acquisition-related and other* . Acquisition-related and other consists primarily of legal and other advisory expenditures incurred to comply with our ongoing obligations from the divestiture of PowerReviews and other legal expenditures.

*Amortization of acquired intangibles* . Amortization for acquired intangible assets remained constant at \$0.3 million for the three months ended July 31, 2017 and 2016 . Amortization of acquired intangible assets represents amortization of acquired customer relationship intangible assets from FeedMagnet and Longboard Media.

**Other Expense, Net**

	Three Months Ended July 31,				
	2017		2016		%
	Amount	% of Revenue	Amount	% of Revenue	
	(dollars in thousands)				
Interest income	\$ 86	0.2 %	\$ 142	0.3 %	(39.4)%
Interest expense	(394)	(0.7)	(489)	(1.0)	(19.4)
Other income (expense)	25	—	(512)	(1.0)	(104.9)
Total other expense, net	<u>\$ (283)</u>	<u>(0.5)%</u>	<u>\$ (859)</u>	<u>(1.7)%</u>	<u>(67.1)%</u>

Total other expense, net, decreased by \$0.6 million for the three months ended July 31, 2017 compared to the same period in 2016 primarily as a result of a \$0.4 million decrease in losses on transactions in foreign currencies, net of foreign currency hedges and a decrease in interest expense on our revolving credit facility due to the reduction of the balance outstanding.

**Income Tax Expense**

	Three Months Ended July 31,				
	2017		2016		%
	Amount	% of Revenue	Amount	% of Revenue	
	(dollars in thousands)				
Income tax expense	\$ 124	0.2%	\$ 135	0.3%	(8.1)%

Income tax expense remained constant during the three months ended July 31, 2017 compared to the same period in 2016 .

**Liquidity and Capital Resources**

Our principal source of liquidity at July 31, 2017 consisted of \$84.5 million of cash and cash equivalents and short term investments. Cash and cash equivalents consist of cash, money market funds, commercial paper, corporate bonds and certificates of deposit. Our short-term investments consist of certificates of deposit, municipal bonds, commercial paper, U.S. Treasury notes and bonds that are a guaranteed obligation of the U.S. Government, corporate notes and corporate bonds. As of July 31, 2017 , the amount of cash and cash equivalents held by foreign subsidiaries was \$8.5 million. If these funds are needed for our domestic operations, we would be required to accrue and pay U.S. taxes to repatriate these funds. However, our intent is to permanently reinvest these funds outside the U.S. and our current plans do not demonstrate a need to repatriate them to fund our domestic operations. We do not provide for federal income taxes on the undistributed earnings of our foreign subsidiaries.

On July 18, 2007, the Company entered into a loan and security agreement with Comerica Bank which was most recently amended and restated on November 21, 2014. The Amended and Restated Credit Facility (the "Credit Facility") provides for a secured, revolving line of credit of up to \$70.0 million , with a sublimit of \$3.0 million for the incurrence of swingline loans and a sublimit of \$15.0 million for the issuance of letters of credit. Availability under the Credit Facility was \$33.1 million as of July 31, 2017 . The Company had letters of credit outstanding of \$9.9 million as of July 31, 2017 . The Credit Facility expires on November 21, 2017 with all advances immediately due and payable. During the three months ended July 31, 2017 , the Company paid \$5.0 million on the balance outstanding under its Credit Facility, reducing the Company's outstanding debt to \$27.0 million.

Subsequent to July 31, 2017 the Company paid \$5.0 million on the balance outstanding under its Credit Facility, reducing the Company's outstanding debt to \$22.0 million.

Our principal needs for liquidity include working capital requirements to fund our operations, capital expenditures, repaying our outstanding revolving line of credit and acquisitions. We intend to renew our Credit Facility prior to its expiration in November 2017. We believe that our available resources are sufficient to fund our liquidity requirements for at least the next 12 months regardless of whether the Company renews its Credit Facility.

Our future capital requirements will depend on many factors, including our rate of client and revenue growth, the expansion of our sales and marketing activities, the timing and extent of spending to support product development efforts, the timing of introductions of new features and enhancements to our social commerce solutions and future acquisitions of, or investments in, complementary businesses and technologies. The timing, frequency, and pattern of our billing mix can also impact our operating cash flows. To the extent that existing cash, cash equivalents and short-term investments along with future cash flow from operations are insufficient to fund our future activities, we may need to raise additional funds through public or private equity or debt financing. Additional funds may not be available on terms favorable to us or at all.

## [Table of Contents](#)

We typically invoice our new and existing SaaS business clients for our subscription services in a varying mix of frequencies such as; monthly, quarterly, semiannual and annual billings. Bookings and therefore billings for our SaaS business are typically higher in the second half of our fiscal year while billings for our advertising business typically increase significantly during the holiday season. These factors typically result in an increase in our accounts receivable balance. Similarly, increases in new client launches lead to increased billings, which in turn also increases our accounts receivable balance. The operating cash flow benefit of increased billing activity generally occurs in the subsequent quarters when we collect from our clients.

Days sales outstanding (“DSO”) is calculated by dividing period end accounts receivable by average daily sales for the fiscal quarter. DSO was 86 days for the three months ended July 31, 2017 compared to 70 days for the three months ended July 31, 2016 . Accounts receivable increased primarily as a result of an increase in the mix of annual and semi-annual billings during the three months ended July 31, 2017 .

Our DSO fluctuates from period to period and year over year, primarily due to the seasonal nature of our new bookings and related renewals, the seasonal nature of our advertising business and the frequency of our customer billings which vary throughout the fiscal year. These trends result in changes in accounts receivable balances that are different than our revenue growth trends. Although period end accounts receivable fluctuates because of these factors, the average daily sales for the period do not because we recognize revenue ratably over the terms of our customer contracts. Accordingly, our average daily sales are not influenced by factors such as seasonality, billing frequency and billing timing.

The following table summarizes our cash flows for the periods indicated (including cash flows from discontinued operations):

	Three Months Ended July 31,	
	2017	2016
	(in thousands)	
Net cash provided by operating activities	\$ 272	\$ 129
Net cash used in investing activities	(1,172)	(441)
Net cash provided by (used in) financing activities	(4,887)	395

### ***Net Cash Provided by Operating Activities***

Net cash provided by operating activities is primarily influenced by the amount of cash we invest in personnel and infrastructure to support the anticipated growth of our business, the increase in the number of clients using our platforms and the amount and timing of client payments.

For the three months ended July 31, 2017 , operating activities provided \$0.3 million of cash after changes in our operating assets and liabilities, offsetting a net loss of \$2.3 million . The net loss included non-cash depreciation and amortization of \$3.5 million , non-cash stock-based expense of \$4.8 million and other non-cash items of \$0.1 million. Cash decreased \$5.8 million as a result of a \$4.5 million increase in operating assets and a \$1.3 million decrease in operating liabilities. The \$4.5 million increase in operating assets was primarily related to an increase in accounts receivable due to an increase in annual and semi-annual billings.

For the three months ended July 31, 2016, operating activities provided \$0.1 million of cash after changes in our operating assets and liabilities, offsetting a net loss of \$5.1 million. The net loss included non-cash depreciation and amortization of \$3.6 million, non-cash stock-based expense of \$3.9 million and bad debt recovery of \$0.2 million. Cash decreased \$2.1 million as a result of a \$4.2 million reduction in operating liabilities partially offset by a \$2.1 million reduction in operating assets. The \$4.2 million reduction in operating liabilities was primarily related to a \$4.5 million decrease in accrued expenses and other current liabilities as a result of a decrease in accrued sales commissions and a reduction in our Advertising revenue share accrual due to timing of payments and a \$2.6 million decrease in accounts payable, partially offset by an increase in deferred revenue. The \$2.0 million reduction in operating assets was primarily driven by a decrease in accounts receivable.

### ***Net Cash (Used in) Investing Activities***

Our primary investing activities have consisted of acquisitions, purchases of short-term investments and property and equipment, including technology hardware and software to support our growth as well as costs capitalized in connection with the development of our internal-use hosted software platform. Purchases of property and equipment may vary from period to period due to the timing of the expansion of our operations and the development cycles of our internal-use hosted software platform. We expect to continue to invest in short-term investments, property and equipment and developing our software platform for the foreseeable future.

For the three months ended July 31, 2017 , investing activities used \$1.2 million , which was primarily the result of \$17.1 million in purchases of short term investments and \$2.3 million in purchases of property, equipment and capitalized internal-use software development costs, which includes \$0.5 million in leasehold improvements related to our new New York office. These activities were partially offset by proceeds from maturities of short-term investments of \$18.2 million.

## [Table of Contents](#)

For the three months ended July 31, 2016, investing activities used \$0.4 million, which was primarily the result of \$12.7 million in purchases of short term investments and \$2.7 million in purchases of property, equipment and capitalized internal-use software development costs, partially offset by proceeds from maturities of short-term investments of \$15.0 million.

### **Net Cash Provided by (Used in) Financing Activities**

Our financing activities have consisted primarily of borrowings under our line of credit, net proceeds from the issuance of common stock and proceeds from the exercises of options to purchase common stock.

For the three months ended July 31, 2017, financing activities used \$4.9 million related to a \$5.0 million payment made on the balance outstanding under the Company's Credit Facility partially offset by net contributions to the Company's Employee Stock Purchase Plan of \$0.1 million.

For the three months ended July 31, 2016, financing activities provided \$0.4 million due to proceeds from contributions of \$0.2 million to our Employee Stock Purchase Plan and proceeds of \$0.2 million from the exercise of options to purchase our common stock.

### **Contractual Obligations and Commitments**

There have been no material changes to the contractual obligations table included in our Annual Report on Form 10-K for the year ended April 30, 2017 filed with the SEC on June 16, 2017 except those related to principal debt obligations and other contractual commitments.

The following table summarizes our contractual obligations as of July 31, 2017 for principal debt obligations and other contractual commitments:

	Payments due by Period				
	Total	Less than 1 Year	1-3 Years	3-5 Years	After 5 Years
	(in thousands)				
Principal debt obligations	27,000	27,000	—	—	—
Other contractual commitments <sup>(1)</sup>	20,264	11,369	8,650	245	—
Total	<u>\$ 47,264</u>	<u>\$ 38,369</u>	<u>\$ 8,650</u>	<u>\$ 245</u>	<u>\$ —</u>

- (1) Contractual commitment amounts in the table above are associated with agreements that are enforceable and legally binding and that specify all significant terms, including: fixed or minimum services to be used; fixed, minimum or variable price provisions; and the approximate timing of the transaction. Obligations under contracts that we can cancel without a significant penalty are not included. In addition, purchase orders are not included as they represent authorizations to purchase rather than binding agreements.

### **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a material current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

### **Critical Accounting Policies and the Use of Estimates**

Preparation of our condensed consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses. We believe the most complex and sensitive judgments, because of their significance to the condensed consolidated financial statements included in this Quarterly Report on Form 10-Q, result primarily from the need to make estimates about the effects of matters that are inherently uncertain. Management's Discussion and Analysis and Note 2 to the consolidated financial statements in our Annual Report on Form 10-K for the fiscal year ended April 30, 2017, filed on June 16, 2017 describe the significant accounting estimates and policies used in the preparation of our condensed consolidated financial statements. Actual results in these areas could differ from management's estimates. During the three months ended July 31, 2017, there were no significant changes in our critical accounting policies or estimates from those reported in our Annual Report on Form 10-K for the fiscal year ended April 30, 2017, filed on June 16, 2017.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

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

## [Table of Contents](#)

### ***Interest Rate Sensitivity***

We hold cash, cash equivalents and short-term investments for working capital purposes. We do not have material exposure to market risk with respect to these investments. We do not use derivative financial instruments for speculative or trading purposes; however, we may adopt specific hedging strategies in the future. Any declines in interest rates will reduce future interest income.

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

Our results of operations and cash flows are subject to fluctuations because of changes in foreign currency exchange rates, particularly changes in exchange rates between the U.S. dollar and the Euro and British Pound, the currencies of countries where we currently have our most significant international operations. On a historical basis, invoicing has largely been denominated in U.S. dollars; however, we expect an increasing proportion of our future business to be conducted in currencies other than U.S. dollars. Our expenses are generally denominated in the currencies of the countries in which our operations are located, with our most significant operations at present located in the United States, the United Kingdom, Germany, France, Australia and Sweden.

We assess the market risk of changes in foreign currency exchange rates utilizing a sensitivity analysis that measures the potential impact on earnings of a hypothetical 10% change in the value of the U.S. dollar on foreign currency denominated monetary assets and liabilities. The effect of an immediate 10% adverse change in exchange rates on foreign currency denominated monetary assets and liabilities, principally accounts receivable and intercompany balances, as of July 31, 2017, would be immaterial.

We have entered into forward exchange contracts to partially hedge our exposure to these foreign currencies. We do not enter into any derivative financial instruments for trading or speculative purposes. We may enter into additional forward exchange contracts to further contain our exposure to foreign currencies fluctuations. To date, we have hedged against some of the fluctuations in currency exchange rates, however fluctuations in exchange rates could materially impact our operating results in the future.

### ***Inflation Risk***

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. 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 have a material impact on our business, financial condition and results of operations.

## **Item 4. Controls and Procedures**

### **Evaluation of Disclosure Controls and Procedures**

Our management is responsible for establishing and maintaining adequate disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act). 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 disclosure controls and procedures as of July 31, 2017. The term “disclosure controls and procedures” (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on management’s evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of July 31, 2017.

### **Changes in Internal Control Over Financial Reporting**

There was no change 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 that occurred during the three months ended July 31, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II – OTHER INFORMATION

### **Item 1. Legal Proceedings**

None.

### **Item 1A. Risk Factors**

Investing in our common stock involves a high degree of risk. You should carefully consider the factors discussed in Part I, Item 1A. “Risk Factors” in our Annual Report on Form 10-K for our fiscal year ended April 30, 2017. If any of such risks and uncertainties actually occurs, our business, financial condition or operating results could differ materially from the plans, projections and other forward-looking statements included in the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and elsewhere in this report and in our other public filings. Except for the risk factor below, there have been no material changes from the risk factors previously disclosed in the Company’s Form 10-K for the year ended April 30, 2017.

*We expect our revenue mix to vary over time, which can affect our gross margin and operating results.*

Revenue generated from our non-recurring services, including our professional and managed services, as well as revenue generated from fees charged to advertisers, may fluctuate due to factors both within and outside of our control. We expect our mix of non-recurring and recurring revenues to vary over time due to a number of factors, including the seasonal nature of both our subscription bookings and related renewals, customer preferences for campaign-based solutions, as well as the seasonality in our advertising business. Our gross margins and operating results can be affected by such changes in revenue mix and costs. In addition, because there is less predictability and certainty in the timing and amount of revenues generated by our non-recurring services, our results of operations and financial condition could be materially adversely affected by the timing and amount of our non-recurring revenues.

### **Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None.

### **Item 6. Exhibits**

The below Exhibit Index is incorporated herein by reference.

## EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			
		<u>Form</u>	<u>File No.</u>	<u>Exhibit</u>	<u>Filing Date</u>
3.1	Amended and Restated Certificate of Incorporation, as currently in effect	S-1	333-176506	3.1	August 26, 2011
<a href="#">3.2*</a>	<a href="#">Amended and Restated Bylaws of Bazaarvoice, Inc. (as amended by the amendment to the Bylaws approved by the Board of Directors of Bazaarvoice, Inc. on August 31, 2017)</a>				
<a href="#">31.1*</a>	<a href="#">Certification of 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</a>				
<a href="#">31.2*</a>	<a href="#">Certification of 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</a>				
<a href="#">32.1**</a>	<a href="#">Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>				
<a href="#">32.2**</a>	<a href="#">Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>				
101.INS*	XBRL Instance Document				
101.SCH*	XBRL Taxonomy Extension Schema Document				
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document				
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document				
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document				
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document				

\* Filed herewith.

\*\* Furnished herewith.

[Table of Contents](#)

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Quarterly Report on Form 10-Q to be signed on its behalf by the undersigned thereunto duly authorized.

Dated: September 7, 2017

BAZAARVOICE, INC.

/s/ James R. Offerdahl

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James R. Offerdahl

Chief Financial Officer

(Principal Financial Officer)

**AMENDED AND RESTATED BYLAWS OF**

**BAZAARVOICE, INC.**

(as amended and restated on July 21, 2011 and as further amended by the amendment to the Bylaws approved by the Board of Directors of Bazaarvoice, Inc. on August 31, 2017))

**TABLE OF CONTENTS**

	<u>Page</u>
ARTICLE I - CORPORATE OFFICES	1
1.1 REGISTERED OFFICE	1
1.2 OTHER OFFICES	1
ARTICLE II - MEETINGS OF STOCKHOLDERS	1
2.1 PLACE OF MEETINGS	1
2.2 ANNUAL MEETING	1
2.3 SPECIAL MEETING	1
2.4 ADVANCE NOTICE PROCEDURES	2
2.5 NOTICE OF STOCKHOLDERS' MEETINGS	6
2.6 QUORUM	6
2.7 ADJOURNED MEETING; NOTICE	6
2.8 CONDUCT OF BUSINESS	6
2.9 VOTING	7
2.10 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING	7
2.11 RECORD DATES	7
2.12 PROXIES	8
2.13 LIST OF STOCKHOLDERS ENTITLED TO VOTE	8
2.14 INSPECTORS OF ELECTION	9
ARTICLE III - DIRECTORS	9
3.1 POWERS	9
3.2 NUMBER OF DIRECTORS	9
3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS	9
3.4 RESIGNATION AND VACANCIES	10
3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE	10
3.6 REGULAR MEETINGS	10
3.7 SPECIAL MEETINGS; NOTICE	11
3.8 QUORUM; VOTING	11
3.9 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING	11
3.10 FEES AND COMPENSATION OF DIRECTORS	12
3.11 REMOVAL OF DIRECTORS	12
ARTICLE IV - COMMITTEES	12
4.1 COMMITTEES OF DIRECTORS	12
4.2 COMMITTEE MINUTES	12
4.3 MEETINGS AND ACTION OF COMMITTEES	12
4.4 SUBCOMMITTEES	13

**TABLE OF CONTENTS**  
**(continued)**

	<u>Page</u>
ARTICLE V - OFFICERS	13
5.1 OFFICERS	13
5.2 APPOINTMENT OF OFFICERS	14
5.3 SUBORDINATE OFFICERS	14
5.4 REMOVAL AND RESIGNATION OF OFFICERS	14
5.5 VACANCIES IN OFFICES	14
5.6 REPRESENTATION OF SHARES OF OTHER CORPORATIONS	14
5.7 AUTHORITY AND DUTIES OF OFFICERS	15
5.8 THE CHAIRPERSON OF THE BOARD	15
5.9 THE VICE CHAIRPERSON OF THE BOARD	15
5.10 THE CHIEF EXECUTIVE OFFICER	15
5.11 THE PRESIDENT	15
5.12 THE VICE PRESIDENTS AND ASSISTANT VICE PRESIDENTS	15
5.13 THE SECRETARY AND ASSISTANT SECRETARIES	16
5.14 THE CHIEF FINANCIAL OFFICER AND ASSISTANT TREASURERS	16
ARTICLE VI - STOCK	16
6.1 STOCK CERTIFICATES; PARTLY PAID SHARES	16
6.2 SPECIAL DESIGNATION ON CERTIFICATES	17
6.3 LOST, STOLEN OR DESTROYED CERTIFICATES	17
6.4 DIVIDENDS	17
6.5 TRANSFER OF STOCK	18
6.6 STOCK TRANSFER AGREEMENTS	18
6.7 REGISTERED STOCKHOLDERS	18
ARTICLE VII - MANNER OF GIVING NOTICE AND WAIVER	18
7.1 NOTICE OF STOCKHOLDERS' MEETINGS	18
7.2 NOTICE BY ELECTRONIC TRANSMISSION	19
7.3 NOTICE TO STOCKHOLDERS SHARING AN ADDRESS	19
7.4 NOTICE TO PERSON WITH WHOM COMMUNICATION IS UNLAWFUL	20
7.5 WAIVER OF NOTICE	20
ARTICLE VIII - INDEMNIFICATION	20
8.1 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN THIRD PARTY PROCEEDINGS	20
8.2 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN ACTIONS BY OR IN THE RIGHT OF THE CORPORATION	21
8.3 SUCCESSFUL DEFENSE	21
8.4 INDEMNIFICATION OF OTHERS	21

**TABLE OF CONTENTS**  
**(continued)**

	<u>Page</u>	
8.5	ADVANCED PAYMENT OF EXPENSES	21
8.6	LIMITATION ON INDEMNIFICATION	22
8.7	DETERMINATION; CLAIM	22
8.8	NON-EXCLUSIVITY OF RIGHTS	23
8.9	INSURANCE	23
8.10	SURVIVAL	23
8.11	EFFECT OF REPEAL OR MODIFICATION	23
8.12	CERTAIN DEFINITIONS	23
ARTICLE IX - GENERAL MATTERS		24
9.1	EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS	24
9.2	FISCAL YEAR	24
9.3	SEAL	24
9.4	CONSTRUCTION; DEFINITIONS	24
ARTICLE X - AMENDMENTS		24
ARTICLE XI - FORUM FOR ADJUDICATION OF DISPUTES		24

**AMENDED AND RESTATED BYLAWS OF BAZAARVOICE, INC.**

**ARTICLE I - CORPORATE OFFICES**

**1.1 REGISTERED OFFICE**

The registered office of Bazaarvoice, Inc. shall be fixed in the corporation's certificate of incorporation. References in these bylaws to the certificate of incorporation shall mean the certificate of incorporation of the corporation, as amended from time to time, including the terms of any certificate of designations of any series of Preferred Stock.

**1.2 OTHER OFFICES**

The corporation's board of directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

**ARTICLE II - MEETINGS OF STOCKHOLDERS**

**2.1 PLACE OF MEETINGS**

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the board of directors. The board of directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the General Corporation Law of the State of Delaware (the "DGCL"). In the absence of any such designation or determination, stockholders' meetings shall be held at the corporation's principal executive office.

**2.2 ANNUAL MEETING**

The annual meeting of stockholders shall be held on such date, at such time, and at such place (if any) within or without the State of Delaware as shall be designated from time to time by the board of directors and stated in the corporation's notice of the meeting. At the annual meeting, directors shall be elected and any other proper business may be transacted.

**2.3 SPECIAL MEETING**

(i) A special meeting of the stockholders, other than those required by statute, may be called at any time only by (A) the board of directors, (B) the chairperson of the board of directors, (C) the chief executive officer or (D) the president (in the absence of a chief executive officer). A special meeting of the stockholders may not be called by any other person or persons. The board of directors may cancel, postpone or reschedule any previously scheduled special meeting at any time, before or after the notice for such meeting has been sent to the stockholders.

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(ii) The notice of a special meeting shall include the purpose for which the meeting is called. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the board of directors, the chairperson of the board of directors, the chief executive officer or the president (in the absence of a chief executive officer). Nothing contained in this Section 2.3(ii) shall be construed as limiting, fixing or affecting the time when a meeting of stockholders called by action of the board of directors may be held.

## 2.4 ADVANCE NOTICE PROCEDURES

(i) *Advance Notice of Stockholder Business.* At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be brought: (A) pursuant to the corporation's proxy materials with respect to such meeting, (B) by or at the direction of the board of directors, or (C) by a stockholder of the corporation who (1) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(i) and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has timely complied in proper written form with the notice procedures set forth in this Section 2.4(i). In addition, for business to be properly brought before an annual meeting by a stockholder, such business must be a proper matter for stockholder action pursuant to these bylaws and applicable law. Except for proposals properly made in accordance with Rule 14a-8 under the Securities and Exchange Act of 1934, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations), and included in the notice of meeting given by or at the direction of the board of directors, for the avoidance of doubt, clause (C) above shall be the exclusive means for a stockholder to bring business before an annual meeting of stockholders.

(a) To comply with clause (C) of Section 2.4(i) above, a stockholder's notice must set forth all information required under this Section 2.4(i) and must be timely received by the secretary of the corporation. To be timely, a stockholder's notice must be received by the secretary at the principal executive offices of the corporation not later than the 45th day nor earlier than the 75th day before the one-year anniversary of the date on which the corporation first mailed its proxy materials or a notice of availability of proxy materials (whichever is earlier) for the preceding year's annual meeting; *provided, however*, that in the event that no annual meeting was held in the previous year or if the date of the annual meeting is advanced by more than 30 days prior to or delayed by more than 60 days after the one-year anniversary of the date of the previous year's annual meeting, then, for notice by the stockholder to be timely, it must be so received by the secretary not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of (i) the 90th day prior to such annual meeting, or (ii) the tenth day following the day on which Public Announcement (as defined below) of the date of such annual meeting is first made. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described in this Section 2.4(i)(a). "Public Announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or any successor thereto (the "1934 Act").

(b) To be in proper written form, a stockholder's notice to the secretary must set forth as to each matter of business the stockholder intends to bring before the annual meeting: (1) a brief description of the business intended to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (2) the name and address, as they appear on the corporation's books, of the

stockholder proposing such business and any Stockholder Associated Person (as defined below), (3) the class and number of shares of the corporation that are held of record or are beneficially owned by the stockholder or any Stockholder Associated Person and any derivative positions held or beneficially held by the stockholder or any Stockholder Associated Person, (4) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit from share price changes for, or to increase or decrease the voting power of, such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, (5) any material interest of the stockholder or a Stockholder Associated Person in such business, and (6) a statement whether either such stockholder or any Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry the proposal (such information provided and statements made as required by clauses (1) through (6), a "Business Solicitation Statement"). In addition, to be in proper written form, a stockholder's notice to the secretary must be supplemented not later than ten days following the record date for notice of the meeting to disclose the information contained in clauses (3) and (4) above as of the record date for notice of the meeting. For purposes of this Section 2.4, a "Stockholder Associated Person" of any stockholder shall mean (i) any person controlling, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the corporation owned of record or beneficially by such stockholder and on whose behalf the proposal or nomination, as the case may be, is being made, or (iii) any person controlling, controlled by or under common control with such person referred to in the preceding clauses (i) and (ii).

(c) Without exception, no business shall be conducted at any annual meeting except in accordance with the provisions set forth in this Section 2.4(i) and, if applicable, Section 2.4(ii). In addition, business proposed to be brought by a stockholder may not be brought before the annual meeting if such stockholder or a Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Business Solicitation Statement applicable to such business or if the Business Solicitation Statement applicable to such business contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that business was not properly brought before the annual meeting and in accordance with the provisions of this Section 2.4(i), and, if the chairperson should so determine, he or she shall so declare at the annual meeting that any such business not properly brought before the annual meeting shall not be conducted.

(ii) *Advance Notice of Director Nominations at Annual Meetings.* Notwithstanding anything in these bylaws to the contrary, only persons who are nominated in accordance with the procedures set forth in this Section 2.4(ii) shall be eligible for election or re-election as directors at an annual meeting of stockholders. Nominations of persons for election or re-election to the board of directors of the corporation shall be made at an annual meeting of stockholders only (A) by or at the direction of the board of directors or (B) by a stockholder of the corporation who (1) was a stockholder of record at the time of the giving of the notice required by this Section 2.4(ii) and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has complied with the notice procedures set forth in this Section 2.4(ii). In addition to any other applicable requirements, for a nomination to be made by a stockholder, the stockholder must have given timely notice thereof in proper written form to the secretary of the corporation.

(a) To comply with clause (B) of Section 2.4(ii) above, a nomination to be made by a stockholder must set forth all information required under this Section 2.4(ii) and must be received by the secretary of the corporation at the principal executive offices of the corporation at the time set forth in, and in accordance with, the final three sentences of Section 2.4(i)(a) above.

(b) To be in proper written form, such stockholder's notice to the secretary must set forth:

(1) as to each person (a "nominee") whom the stockholder proposes to nominate for election or re-election as a director: (A) the name, age, business address and residence address of the nominee, (B) the principal occupation or employment of the nominee, (C) the class and number of shares of the corporation that are held of record or are beneficially owned by the nominee and any derivative positions held or beneficially held by the nominee, (D) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of the nominee with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit of share price changes for, or to increase or decrease the voting power of the nominee, (E) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder, (F) a written statement executed by the nominee acknowledging that as a director of the corporation, the nominee will owe a fiduciary duty under Delaware law with respect to the corporation and its stockholders, and (G) any other information relating to the nominee that would be required to be disclosed about such nominee if proxies were being solicited for the election or re-election of the nominee as a director, or that is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including without limitation the nominee's written consent to being named in the proxy statement, if any, as a nominee and to serving as a director if elected or re-elected, as the case may be); and

(2) as to such stockholder giving notice, (A) the information required to be provided pursuant to clauses (2) through (5) of Section 2.4(i)(b) above, and the supplement referenced in the second sentence of Section 2.4(i)(b) above (except that the references to "business" in such clauses shall instead refer to nominations of directors for purposes of this paragraph), and (B) a statement whether either such stockholder or Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of a number of the corporation's voting shares reasonably believed by such stockholder or Stockholder Associated Person to be necessary to elect or re-elect such nominee(s) (such information provided and statements made as required by clauses (A) and (B) above, a "Nominee Solicitation Statement").

(c) At the request of the board of directors, any person nominated by a stockholder for election or re-election as a director must furnish to the secretary of the corporation (1) that information required to be set forth in the stockholder's notice of nomination of such person as a director as of a date subsequent to the date on which the notice of such person's nomination was given and (2) such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director or audit committee financial expert of the corporation under applicable law, securities exchange rule or regulation, or any publicly-disclosed corporate governance guideline or committee charter of the corporation and (3) that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee; in the absence of the furnishing of such information if requested, such stockholder's nomination shall not be considered in proper form pursuant to this Section 2.4(ii).

(d) Without exception, no person shall be eligible for election or re-election as a director of the corporation at an annual meeting of stockholders unless nominated in accordance with the provisions set forth in this Section 2.4(ii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that a nomination was not made in accordance with the provisions prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the annual meeting, and the defective nomination shall be disregarded.

*(iii) Advance Notice of Director Nominations for Special Meetings.*

(a) For a special meeting of stockholders at which directors are to be elected or re-elected, nominations of persons for election or re-election to the board of directors shall be made only (1) by or at the direction of the board of directors or (2) by any stockholder of the corporation who (A) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(iii) and on the record date for the determination of stockholders entitled to vote at the special meeting and (B) delivers a timely written notice of the nomination to the secretary of the corporation that includes the information set forth in Sections 2.4(ii)(b) and (ii)(c) above. To be timely, such notice must be received by the secretary at the principal executive offices of the corporation not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which Public Announcement is first made of the date of the special meeting and of the nominees proposed by the board of directors to be elected or re-elected at such meeting. A person shall not be eligible for election or re-election as a director at a special meeting unless the person is nominated (i) by or at the direction of the board of directors or (ii) by a stockholder in accordance with the notice procedures set forth in this Section 2.4(iii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading.

(b) The chairperson of the special meeting shall, if the facts warrant, determine and declare at the meeting that a nomination or business was not made in accordance with the procedures prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the meeting, and the defective nomination or business shall be disregarded.

*(iv) Other Requirements and Rights .* In addition to the foregoing provisions of this Section 2.4, a stockholder must also comply with all applicable requirements of state law and of the 1934 Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.4. Nothing in this Section 2.4 shall be deemed to affect any rights of:

- (a) a stockholder to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the 1934 Act; or
- (b) the corporation to omit a proposal from the corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the 1934 Act.

## 2.5 NOTICE OF STOCKHOLDERS' MEETINGS

Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

## 2.6 QUORUM

The holders of a majority of the stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws

If a quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

## 2.7 ADJOURNED MEETING; NOTICE

When a meeting is adjourned to another time or place, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 213(a) of the DGCL and Section 2.11 of these bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

## 2.8 CONDUCT OF BUSINESS

The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business. The chairperson of any meeting of stockholders shall be designated by the board of directors; in the absence of such designation, the chairperson of the board, if any, the chief executive officer (in the absence of the chairperson) or the president (in

the absence of the chairperson of the board and the chief executive officer), or in their absence any other executive officer of the corporation, shall serve as chairperson of the stockholder meeting.

## 2.9 VOTING

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation or these bylaws, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of incorporation or these bylaws.

## 2.10 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Subject to the rights of the holders of the shares of any series of Preferred Stock or any other class of stock or series thereof that have been expressly granted the right to take action by written consent, any action required or permitted to be taken by the stockholders of the corporation must be effected at a duly called annual or special meeting of stockholders of the corporation and may not be effected by any consent in writing by such stockholders.

## 2.11 RECORD DATES

In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the board of directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the board of directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the provisions of Section 213 of the DGCL and this Section 2.11 at the adjourned meeting.

In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

## 2.12 PROXIES

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A written proxy may be in the form of a telegram, cablegram, or other means of electronic transmission which sets forth or is submitted with information from which it can be determined that the telegram, cablegram, or other means of electronic transmission was authorized by the person.

## 2.13 LIST OF STOCKHOLDERS ENTITLED TO VOTE

The officer who has charge of the stock ledger of the corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however*, if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date. The stockholder list shall be arranged in alphabetical order and show the address of each stockholder and the number of shares registered in the name of each stockholder. The corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least 10 days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the corporation's principal place of business. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

## 2.14 INSPECTORS OF ELECTION

Before any meeting of stockholders, the board of directors shall appoint an inspector or inspectors of election to act at the meeting or its adjournment. The number of inspectors shall be either one (1) or three (3). If any person appointed as inspector fails to appear or fails or refuses to act, then the chairperson of the meeting may, and upon the request of any stockholder or a stockholder's proxy shall, appoint a person to fill that vacancy.

Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed and designated shall (i) ascertain the number of shares of capital stock of the corporation outstanding and the voting power of each share, (ii) determine the shares of capital stock of the corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the corporation represented at the meeting and such inspector or inspectors' count of all votes and ballots.

In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the corporation, the inspector or inspectors may consider such information as is permitted by applicable law. If there are three (3) inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all.

## ARTICLE III - DIRECTORS

### 3.1 POWERS

The business and affairs of the corporation shall be managed by or under the direction of the board of directors, except as may be otherwise provided in the DGCL or the certificate of incorporation.

### 3.2 NUMBER OF DIRECTORS

The board of directors shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time solely by resolution of the board of directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

### 3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS

Except as provided in Section 3.4 of these bylaws, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until such director's successor is elected and qualified or until such director's earlier death, resignation or removal. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors. If so provided in the certificate of incorporation, the Directors of the corporation shall be divided into classes.

### 3.4 RESIGNATION AND VACANCIES

Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation; *provided, however*, that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the director. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Acceptance of such resignation shall not be necessary to make it effective. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of incorporation or these bylaws, when one or more directors resign from the board of directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class shall be filled only by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If the directors are divided into classes, a person so elected by the directors then in office to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole board of directors (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

### 3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

The board of directors may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the board of directors, or any committee designated by the board of directors, may participate in a meeting of the board of directors, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

### 3.6 REGULAR MEETINGS

Regular meetings of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the board of directors.

### 3.7 SPECIAL MEETINGS; NOTICE

Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairperson of the board of directors, the chief executive officer, the president, the secretary or a majority of the authorized number of directors, at such times and places as he or she or they shall designate.

Notice of the time and place of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid;
- (iii) sent by facsimile; or
- (iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the corporation's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the corporation's principal executive office) nor the purpose of the meeting.

### 3.8 QUORUM; VOTING

At all meetings of the board of directors, a majority of the total authorized number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the board of directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the board of directors, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws.

If the certificate of incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

### 3.9 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof, may be taken without

a meeting if all members of the board of directors or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board of directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

#### 3.10 FEES AND COMPENSATION OF DIRECTORS

Unless otherwise restricted by the certificate of incorporation or these bylaws, the board of directors shall have the authority to fix the compensation of directors.

#### 3.11 REMOVAL OF DIRECTORS

A director may be removed from office by the stockholders of the corporation only for cause.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

### ARTICLE IV - COMMITTEES

#### 4.1 COMMITTEES OF DIRECTORS

The board of directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board of directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors or in these bylaws, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the corporation.

#### 4.2 COMMITTEE MINUTES

Each committee shall keep regular minutes of its meetings and report the same to the board of directors when required.

#### 4.3 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (i) Section 3.5 (place of meetings and meetings by telephone);

- (ii) Section 3.6 (regular meetings);
- (iii) Section 3.7 (special meetings; notice);
- (iv) Section 3.8 (quorum; voting);
- (v) Section 3.9 (action without a meeting); and
- (vi) Section 7.5 (waiver of notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members. *However* :

- (i) the time of regular meetings of committees may be determined by resolution of the committee;
- (ii) special meetings of committees may also be called by resolution of the committee; and

(iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

#### 4.4 SUBCOMMITTEES

Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

### ARTICLE V - OFFICERS

#### 5.1 OFFICERS

The officers of the corporation shall be a president and a secretary. The corporation may also have, at the discretion of the board of directors, a chairperson of the board of directors, a vice chairperson of the board of directors, a chief executive officer, a chief financial officer or treasurer, one or more vice presidents, one or more assistant vice presidents, one or more assistant treasurers, one or more assistant secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

## 5.2 APPOINTMENT OF OFFICERS

The board of directors shall appoint the officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws, subject to the rights, if any, of an officer under any contract of employment. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in this Section 5 for the regular election to such office.

## 5.3 SUBORDINATE OFFICERS

The board of directors may appoint, or empower the chief executive officer or, in the absence of a chief executive officer, the president, to appoint, such other officers and agents as the business of the corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

## 5.4 REMOVAL AND RESIGNATION OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the board of directors at any regular or special meeting of the board of directors or, except in the case of an officer chosen by the board of directors, by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written or electronic notice to the corporation; *provided, however*, that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the officer. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

## 5.5 VACANCIES IN OFFICES

Any vacancy occurring in any office of the corporation shall be filled by the board of directors or as provided in Section 5.3.

## 5.6 REPRESENTATION OF SHARES OF OTHER CORPORATIONS

The chairperson of the board of directors, the president, any vice president, the treasurer, the secretary or assistant secretary of this corporation, or any other person authorized by the board of directors or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

#### 5.7 AUTHORITY AND DUTIES OF OFFICERS

All officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the board of directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the board of directors.

#### 5.8 THE CHAIRPERSON OF THE BOARD

The chairperson of the board shall have the powers and duties customarily and usually associated with the office of the chairperson of the board. The chairperson of the board shall preside at meetings of the stockholders and of the board of directors.

#### 5.9 THE VICE CHAIRPERSON OF THE BOARD

The vice chairperson of the board shall have the powers and duties customarily and usually associated with the office of the vice chairperson of the board. In the case of absence or disability of the chairperson of the board, the vice chairperson of the board shall perform the duties and exercise the powers of the chairperson of the board.

#### 5.10 THE CHIEF EXECUTIVE OFFICER

The chief executive officer shall have, subject to the supervision, direction and control of the board of directors, ultimate authority for decisions relating to the supervision, direction and management of the affairs and the business of the corporation customarily and usually associated with the position of chief executive officer, including, without limitation, all powers necessary to direct and control the organizational and reporting relationships within the corporation. If at any time the office of the chairperson and vice chairperson of the board shall not be filled, or in the event of the temporary absence or disability of the chairperson of the board and the vice chairperson of the board, the chief executive officer shall perform the duties and exercise the powers of the chairperson of the board unless otherwise determined by the board of directors.

#### 5.11 THE PRESIDENT

The president shall have, subject to the supervision, direction and control of the board of directors, the general powers and duties of supervision, direction and management of the affairs and business of the corporation customarily and usually associated with the position of president. The president shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board or the chief executive officer. In the event of the absence or disability of the chief executive officer, the president shall perform the duties and exercise the powers of the chief executive officer unless otherwise determined by the board of directors.

#### 5.12 THE VICE PRESIDENTS AND ASSISTANT VICE PRESIDENTS

Each vice president and assistant vice president shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer or the president.

### 5.13 THE SECRETARY AND ASSISTANT SECRETARIES

(i) The secretary shall attend meetings of the board of directors and meetings of the stockholders and record all votes and minutes of all such proceedings in a book or books kept for such purpose. The secretary shall have all such further powers and duties as are customarily and usually associated with the position of secretary or as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer or the president.

(ii) Each assistant secretary shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer, the president or the secretary. In the event of the absence, inability or refusal to act of the secretary, the assistant secretary (or if there shall be more than one, the assistant secretaries in the order determined by the board of directors) shall perform the duties and exercise the powers of the secretary.

### 5.14 THE CHIEF FINANCIAL OFFICER AND ASSISTANT TREASURERS

(i) The chief financial officer shall be the treasurer of the corporation. The chief financial officer shall have custody of the corporation's funds and securities, shall be responsible for maintaining the corporation's accounting records and statements, shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit or cause to be deposited moneys or other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors. The chief financial officer shall also maintain adequate records of all assets, liabilities and transactions of the corporation and shall assure that adequate audits thereof are currently and regularly made. The chief financial officer shall have all such further powers and duties as are customarily and usually associated with the position of chief financial officer, or as may from time to time be assigned to him or her by the board of directors, the chairperson, the chief executive officer or the president.

(ii) Each assistant treasurer shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chief executive officer, the president or the chief financial officer. In the event of the absence, inability or refusal to act of the chief financial officer, the assistant treasurer (or if there shall be more than one, the assistant treasurers in the order determined by the board of directors) shall perform the duties and exercise the powers of the chief financial officer.

## ARTICLE VI - STOCK

### 6.1 STOCK CERTIFICATES; PARTLY PAID SHARES

The shares of the corporation shall be represented by certificates, provided that the board of directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the corporation by the chairperson of the board of directors or vice-chairperson of the board of directors, or the president or a vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be

such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The corporation shall not have power to issue a certificate in bearer form.

The corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly-paid shares, or upon the books and records of the corporation in the case of uncertificated partly-paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully-paid shares, the corporation shall declare a dividend upon partly-paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

## 6.2 SPECIAL DESIGNATION ON CERTIFICATES

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; *provided, however*, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section 6.2 or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this section 6.2 a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

## 6.3 LOST, STOLEN OR DESTROYED CERTIFICATES

Except as provided in this Section 6.3, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

## 6.4 DIVIDENDS

The board of directors, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the corporation's capital stock. Dividends may

be paid in cash, in property, or in shares of the corporation's capital stock, subject to the provisions of the certificate of incorporation.

The board of directors may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation, and meeting contingencies.

#### 6.5 TRANSFER OF STOCK

Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer; *provided, however*, that such succession, assignment or authority to transfer is not prohibited by the certificate of incorporation, these bylaws, applicable law or contract.

#### 6.6 STOCK TRANSFER AGREEMENTS

The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

#### 6.7 REGISTERED STOCKHOLDERS

The corporation:

- (i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;
- (ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and
- (iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

### **ARTICLE VII - MANNER OF GIVING NOTICE AND WAIVER**

#### 7.1 NOTICE OF STOCKHOLDERS' MEETINGS

Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the corporation's records. An affidavit of the secretary or an assistant secretary of the corporation or of the transfer agent or other agent of the corporation that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

## 7.2 NOTICE BY ELECTRONIC TRANSMISSION

Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the corporation under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if:

- (i) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and
- (ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

- (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;
- (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;
- (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and
- (iv) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

## 7.3 NOTICE TO STOCKHOLDERS SHARING AN ADDRESS

Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any

stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

#### 7.4 NOTICE TO PERSON WITH WHOM COMMUNICATION IS UNLAWFUL

Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

#### 7.5 WAIVER OF NOTICE

Whenever notice is required to be given to stockholders, directors or other persons under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or the board of directors, as the case may be, need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

### ARTICLE VIII -INDEMNIFICATION

#### 8.1 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN THIRD PARTY PROCEEDINGS

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director of the corporation or an officer of the corporation, or while a director of the corporation or officer of the corporation is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation,

and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

## 8.2 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN ACTIONS BY OR IN THE RIGHT OF THE CORPORATION

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the corporation, or while a director or officer of the corporation is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

## 8.3 SUCCESSFUL DEFENSE

To the extent that a present or former director or officer of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described in Section 8.1 or Section 8.2, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

## 8.4 INDEMNIFICATION OF OTHERS

Subject to the other provisions of this Article VIII, the corporation shall have power to indemnify its employees and its agents to the extent not prohibited by the DGCL or other applicable law. The board of directors shall have the power to delegate the determination of whether employees or agents shall be indemnified to such person or persons as the board of determines.

## 8.5 ADVANCED PAYMENT OF EXPENSES

Expenses (including attorneys' fees) incurred by an officer or director of the corporation in defending any Proceeding shall be paid by the corporation in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this Article VIII or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the corporation deems reasonably appropriate and shall be subject to the corporation's expense guidelines. The right to advancement of expenses shall not apply to any claim for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding referenced in Section 8.6(ii) or 8.6(iii) prior to a determination that the person is not entitled to be indemnified by the corporation.

## 8.6 LIMITATION ON INDEMNIFICATION

Subject to the requirements in Section 8.3 and the DGCL, the corporation shall not be obligated to indemnify any person pursuant to this Article VIII in connection with any Proceeding (or any part of any Proceeding):

(i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the 1934 Act, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);

(iii) for any reimbursement of the corporation by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the corporation, as required in each case under the 1934 Act (including any such reimbursements that arise from an accounting restatement of the corporation pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”), or the payment to the corporation of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);

(iv) initiated by such person against the corporation or its directors, officers, employees, agents or other indemnitees, unless (a) the board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the corporation provides the indemnification, in its sole discretion, pursuant to the powers vested in the corporation under applicable law, (c) otherwise required to be made under Section 8.7 or (d) otherwise required by applicable law; or

(v) if prohibited by applicable law; *provided, however*, that if any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Article VIII (including, without limitation, each portion of any paragraph or clause containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, each such portion of any paragraph or clause containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

## 8.7 DETERMINATION; CLAIM

If a claim for indemnification or advancement of expenses under this Article VIII is not paid in full within 90 days after receipt by the corporation of the written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. The corporation shall indemnify such person against any and all expenses that are incurred by such person in connection with any action for indemnification or advancement of expenses from the corporation under this Article VIII, to the extent such person is successful in such action, and to the extent not prohibited by law. In any such suit, the corporation shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

## 8.8 NON-EXCLUSIVITY OF RIGHTS

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

## 8.9 INSURANCE

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of the DGCL.

## 8.10 SURVIVAL

The rights to indemnification and advancement of expenses conferred by this Article VIII shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

## 8.11 EFFECT OF REPEAL OR MODIFICATION

Any amendment, alteration or repeal of this Article VIII shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to such amendment, alteration or repeal.

## 8.12 CERTAIN DEFINITIONS

For purposes of this Article VIII, references to the "corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VIII with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VIII, references to "other enterprises" shall include employee benefit plans; references to "finances" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of

an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this Article VIII.

## ARTICLE IX - GENERAL MATTERS

### 9.1 EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS

Except as otherwise provided by law, the certificate of incorporation or these bylaws, the board of directors may authorize any officer or officers, or agent or agents, to enter into any contract or execute any document or instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

### 9.2 FISCAL YEAR

The fiscal year of the corporation shall be fixed by resolution of the board of directors and may be changed by the board of directors.

### 9.3 SEAL

The corporation may adopt a corporate seal, which shall be adopted and which may be altered by the board of directors. The corporation may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

### 9.4 CONSTRUCTION; DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both an entity and a natural person.

## ARTICLE X - AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote; *provided, however*, that the affirmative vote of the holders of at least 66 2/3% of the total voting power of outstanding voting securities, voting together as a single class, shall be required for the stockholders of the corporation to alter, amend or repeal, or adopt any bylaw inconsistent with, the following provisions of these bylaws: Article II, Sections 3.1, 3.2, 3.4 and 3.11 of Article III, Article VIII and this Article X (including, without limitation, any such Article or Section as renumbered as a result of any amendment, alteration, change, repeal, or adoption of any other Bylaw). The board of directors shall also have the power to adopt, amend or repeal bylaws; *provided, however*, that a bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the board of directors.

## ARTICLE XI - FORUM FOR ADJUDICATION OF DISPUTES

Unless the corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or other employee of the corporation to the corporation or the corporation’s stockholders, (iii) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, or (iv) any action asserting a claim governed by the internal affairs doctrine (each, an “Action”) shall be a state or federal court located within the state of Delaware (a “Chosen Court”), in all cases subject to the court’s having personal jurisdiction over the indispensable parties named as defendants.”

**CERTIFICATION PURSUANT TO RULES 13A-14(A) AND 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Gene Austin, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Bazaarvoice, 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.

Dated: September 7, 2017

/s/ Gene Austin

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Gene Austin

Chief Executive Officer and President

(Principal Executive Officer)

**CERTIFICATION PURSUANT TO RULES 13A-14(A) AND 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, James R. Offerdahl, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Bazaarvoice, 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.

Dated: September 7, 2017

/s/ James R. Offerdahl

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James R. Offerdahl

Chief Financial Officer

(Principal Financial Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bazaarvoice, Inc. (the "Company") on Form 10-Q for the period ended July 31, 2017 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Gene Austin, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: September 7, 2017

/s/ Gene Austin

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Gene Austin

Chief Executive Officer and President

(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bazaarvoice, Inc. (the "Company") on Form 10-Q for the period ended July 31, 2017 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James R. Offerdahl Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: September 7, 2017

/s/ James R. Offerdahl

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James R. Offerdahl

Chief Financial Officer

(Principal Financial Officer)