

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the quarterly period ended March 31, 2025

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: 001-40817

**AMPLITUDE, INC.**  
(Exact Name of Registrant as Specified in its Charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)  
**201 Third Street, Suite 200**  
**San Francisco, California**  
(Address of principal executive offices)

**45-3937349**  
(I.R.S. Employer  
Identification No.)

**94103**  
(Zip Code)

**Registrant's telephone number, including area code: (415) 231-2353**

N/A

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, \$0.00001 par value per share	AMPL	The Nasdaq Stock Market LLC

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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 checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

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

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

As of May 2, 2025, there were 98,795,586 shares of the registrant's Class A common stock and 32,093,043 shares of the registrant's Class B common stock, each with a \$0.00001 par value per share, outstanding.

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## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts contained in this Quarterly Report on Form 10-Q may be forward-looking statements. In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “targets,” “projects,” “contemplates,” “believes,” “estimates,” “forecasts,” “predicts,” “potential,” or “continue,” or the negative of these terms or other similar expressions. Forward-looking statements contained in this Quarterly Report on Form 10-Q include, but are not limited to statements about:

- our expectations regarding our revenue, expenses, and other operating results;
- our ability to acquire new customers;
- our ability to increase usage of our Digital Analytics Platform and upsell and cross-sell additional products;
- our ability to achieve or sustain profitability;
- future investments in our business, our anticipated capital expenditures, and our estimates regarding our capital requirements;
- the costs and success of our sales and marketing efforts, including our ability to grow and maintain our channel partners, and our ability to promote our brand;
- the effects of public health crises and other global events, such as the war in Ukraine and the conflicts in the Middle East, on our business and the global economy generally;
- our reliance on key personnel and our ability to identify, recruit, and retain skilled personnel;
- our ability to drive growth by incorporating artificial intelligence and machine learning solutions into our platform;
- our ability to effectively manage our growth, including any international expansion;
- our ability to protect our intellectual property rights and any costs associated therewith;
- our ability to compete effectively with existing competitors and new market entrants; and
- the expenses associated with being a public company.

We caution you that the foregoing list does not contain all of the forward-looking statements made in this Quarterly Report on Form 10-Q.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this Quarterly Report on Form 10-Q primarily on our current expectations, estimates, forecasts, and projections about future events and trends that we believe may affect our business, results of operations, financial condition, and prospects. Although we believe that we have a reasonable basis for each forward-looking statement contained in this Quarterly Report on Form 10-Q, we cannot guarantee that the future results, levels of activity, performance, events, and circumstances reflected in the forward-looking statements will be achieved or occur at all. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties, and other factors discussed in Part I, Item 2, “Management's Discussion and Analysis of Financial Condition and Results of Operations” and Part II, Item 1A, “Risk Factors” in this Quarterly Report on Form 10-Q as well as other documents that may be filed by us from time to time with the Securities and Exchange Commission. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this Quarterly Report on Form 10-Q. The results, events, and circumstances reflected in the forward-looking statements may not be achieved or occur, and actual results, events, or circumstances could differ materially from those described in the forward-looking statements.

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

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report on Form 10-Q, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and you are cautioned not to unduly rely upon these statements.

You should read this Quarterly Report on Form 10-Q and the documents that we reference in this Quarterly Report on Form 10-Q and have filed as exhibits to our most recent Annual Report on Form 10-K and this Quarterly Report on Form 10-Q, completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of the forward-looking statements in this Quarterly Report on Form 10-Q by these cautionary statements.

## SUMMARY OF RISK FACTORS

Our business is subject to numerous risks and uncertainties, including those described in Part II, Item 1A, “Risk Factors” in this Quarterly Report on Form 10-Q. The following is a summary of principal risks and uncertainties that could materially adversely affect our business, financial condition, and results of operations. This summary should be read in conjunction with the “Risk Factors” section and should not be relied upon as an exhaustive summary of the material risks and uncertainties facing our business.

- We have a limited operating history and have been growing rapidly over the last several years, which makes it difficult to forecast our future results of operations and increases the risk of your investment.
- We have a history of losses. As our costs increase, we may not be able to generate sufficient revenue to achieve and sustain profitability.
- Our business depends on our existing customers renewing their subscriptions and purchasing additional subscriptions from us as well as attracting new customers. Any decline in our customer retention or expansion of our commercial relationships with existing customers or an inability to attract new customers would materially adversely affect our business, financial condition, and results of operations.
- We expect fluctuations in our financial results and key metrics, making it difficult to project future results. If we fail to meet the expectations of securities analysts or investors with respect to our results of operations, the trading price of our Class A common stock could decline.
- We expect to continue to focus on sales to larger organizations and may become more dependent on those relationships, which may increase the variability of our sales cycle and our results of operations.
- We recognize revenue over the term of our customer contracts. Consequently, downturns or upturns in new sales may not be immediately reflected in our results of operations and may be difficult to discern.
- Unfavorable conditions in our industry or the global economy, or reductions in software spending, could limit our ability to grow our business and materially adversely affect our business, financial condition, and results of operations.
- If the market for SaaS applications develops more slowly than we expect or declines, our business would be materially adversely affected.
- Our intellectual property rights may not protect our business or provide us with a competitive advantage, which could have a material adverse effect on our business, financial condition, and results of operations.
- We are subject to government regulation, including import, export control, economic sanctions, and trade sanctions, and anti-corruption laws and regulations, which may expose us to liability and increase our costs.
- Complying with evolving privacy and other data-related laws, as well as contractual and other requirements, may be expensive and force us to make adverse changes to our business, and the failure or perceived failure to comply with such laws, contracts, and other requirements could result in adverse reputational and brand damage and significant fines and liability or otherwise materially adversely affect our business and growth prospects.
- The trading price of our Class A common stock has been, and in the future, may be, volatile, and could decline significantly and rapidly.
- Our principal stockholders have the ability to influence the outcome of director elections and other matters requiring stockholder approval.
- The dual class structure of our common stock has the effect of concentrating voting control with our existing stockholders, executive officers, and directors and their affiliates, which limits your ability to influence the outcome of important transactions and to influence corporate governance matters, such as electing directors, and to approve material mergers, acquisitions, or other business combination transactions that may not be aligned with your interests.

**PART I—FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**AMPLITUDE, INC.**  
**Condensed Consolidated Balance Sheets**  
(In thousands, except per share amounts)  
(unaudited)

	<u>As of</u> <u>March 31,</u> <u>2025</u>	<u>As of</u> <u>December 31,</u> <u>2024</u>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 131,173	\$ 171,678
Restricted cash, current	885	881
Marketable securities, current	77,867	69,419
Accounts receivable, net of allowance for doubtful accounts of \$1,139 and \$1,417 as of March 31, 2025 and December 31, 2024, respectively	41,746	26,346
Prepaid expenses and other current assets	18,893	20,353
Deferred commissions, current	15,412	14,954
Total current assets	285,976	303,631
Marketable securities, noncurrent	73,995	57,242
Property and equipment, net	16,349	16,333
Intangible assets, net	4,059	4,364
Goodwill	24,358	24,370
Deferred commissions, noncurrent	27,945	27,697
Operating lease right-of-use assets	5,300	5,286
Other noncurrent assets	7,806	6,988
Total assets	\$ 445,788	\$ 445,911
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 2,242	\$ 991
Accrued expenses	31,905	33,851
Deferred revenue	117,004	109,671
Total current liabilities	151,151	144,513
Operating lease liabilities, noncurrent	2,079	1,772
Noncurrent liabilities	3,098	3,070
Total liabilities	156,328	149,355
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Preferred stock, \$0.00001 par value per share; 20,000 shares authorized as of March 31, 2025 and December 31, 2024; zero shares issued and outstanding as of March 31, 2025 and December 31, 2024	—	—
Class A common stock, \$0.00001 par value per share; 600,000 shares authorized as of March 31, 2025 and December 31, 2024; 98,764 and 96,095 shares issued and outstanding as of March 31, 2025 and December 31, 2024, respectively	1	1
Class B common stock, \$0.00001 par value per share; 600,000 shares authorized as of March 31, 2025 and December 31, 2024; 32,093 and 33,093 shares issued and outstanding as of March 31, 2025 and December 31, 2024, respectively	—	—
Additional paid-in capital	769,213	754,398
Accumulated other comprehensive income (loss)	326	6
Accumulated deficit	(480,080)	(457,849)
Total stockholders' equity	289,460	296,556
Total liabilities and stockholders' equity	\$ 445,788	\$ 445,911

See accompanying notes to condensed consolidated financial statements.

**AMPLITUDE, INC.**  
**Condensed Consolidated Statements of Operations and Comprehensive Loss**  
(In thousands, except per share amounts)  
(unaudited)

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<u>2025</u>	<u>2024</u>
Revenue	\$ 79,953	\$ 72,624
Cost of revenue	20,204	18,889
Gross profit	<u>59,749</u>	<u>53,735</u>
Operating expenses:		
Research and development	23,533	22,953
Sales and marketing	44,146	40,817
General and administrative	16,268	14,670
Total operating expenses	<u>83,947</u>	<u>78,440</u>
Other income (expense), net	2,745	3,671
Loss before provision for (benefit from) income taxes	(21,453)	(21,034)
Provision for (benefit from) income taxes	778	426
Net loss	<u>\$ (22,231)</u>	<u>\$ (21,460)</u>
Net loss per share attributable to Class A and Class B common stockholders:		
Basic and diluted	<u>(0.17)</u>	<u>(0.18)</u>
Weighted-average shares used in computing net loss per share attributable to Class A and Class B common stockholders:		
Basic and diluted	<u>129,696</u>	<u>120,826</u>
Other comprehensive loss		
Net unrealized gains (losses) on marketable securities	320	67
Comprehensive loss	<u>\$ (21,911)</u>	<u>\$ (21,393)</u>

See accompanying notes to condensed consolidated financial statements.

**AMPLITUDE, INC.**  
**Condensed Consolidated Statements of Stockholders' Equity**  
**(In thousands)**  
**(unaudited)**

	Class A and Class B common stock		Additional paid-in capital	Accumulated other comprehensive income (loss)	Accumulated deficit	Total stockholders' equity
	Shares	Amount				
Balance at December 31, 2024	129,188	\$ 1	\$ 754,398	\$ 6	\$ (457,849)	\$ 296,556
Stock-based compensation expense	—	—	21,355	—	—	21,355
Exercise of stock options	534	—	1,529	—	—	1,529
Vesting of restricted stock units	1,805	—	—	—	—	—
Tax withholding on net share settlement of restricted stock units	(670)	—	(8,069)	—	—	(8,069)
Net loss	—	—	—	—	(22,231)	(22,231)
Other comprehensive income (loss), net	—	—	—	320	—	320
Balance at March 31, 2025	<u>130,857</u>	<u>\$ 1</u>	<u>\$ 769,213</u>	<u>\$ 326</u>	<u>\$ (480,080)</u>	<u>\$ 289,460</u>

See accompanying notes to condensed consolidated financial statements.

**AMPLITUDE, INC.**  
**Condensed Consolidated Statements of Stockholders' Equity**  
**(In thousands)**  
**(unaudited)**

	Class A and Class B common stock		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount				
Balance at December 31, 2023	120,010	\$ 1	\$ 658,463	\$ (181)	\$ (363,530)	\$ 294,753
Stock-based compensation expense	—	—	21,765	—	—	21,765
Exercise of stock options	699	—	1,794	—	—	1,794
Vesting of early exercised stock options	—	—	20	—	—	20
Vesting of restricted stock units	1,442	—	—	—	—	—
Tax withholding on net share settlement of restricted stock units	(542)	—	(7,729)	—	—	(7,729)
Net loss	—	—	—	—	(21,460)	(21,460)
Other comprehensive income (loss), net	—	—	—	67	—	67
Balance at March 31, 2024	<u>121,609</u>	<u>\$ 1</u>	<u>\$ 674,313</u>	<u>\$ (114)</u>	<u>\$ (384,990)</u>	<u>\$ 289,210</u>

See accompanying notes to condensed consolidated financial statements.

**AMPLITUDE, INC.**  
**Condensed Consolidated Statements of Cash Flows**  
(In thousands)  
(unaudited)

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
<b>Cash flows from operating activities:</b>		
Net loss	\$ (22,231)	\$ (21,460)
<b>Adjustments to reconcile net loss to net cash provided by (used in) operating activities:</b>		
Depreciation and amortization	2,285	1,450
Stock-based compensation expense	20,597	21,064
Other	254	(239)
Non-cash operating lease costs	1,128	985
<b>Changes in operating assets and liabilities:</b>		
Accounts receivable	(15,380)	(6,784)
Prepaid expenses and other current assets	1,633	(2,208)
Deferred commissions	(707)	126
Other noncurrent assets	(819)	(2,909)
Accounts payable	1,184	11,347
Accrued expenses	(1,873)	(507)
Deferred revenue	7,333	201
Operating lease liabilities	(1,426)	(1,114)
Net cash provided by (used in) operating activities	<u>(8,022)</u>	<u>(48)</u>
<b>Cash flows provided by (used in) investing activities:</b>		
Cash received from maturities of marketable securities	8,550	42,500
Purchases of marketable securities	(33,735)	(18,352)
Purchase of property and equipment	(439)	(357)
Capitalization of internal-use software costs	(765)	(733)
Net cash provided by (used in) investing activities	<u>(26,389)</u>	<u>23,058</u>
<b>Cash flows provided by (used in) financing activities:</b>		
Proceeds from the exercise of stock options	1,529	1,794
Cash received for tax withholding obligations on equity award settlements	1,378	1,546
Cash paid for tax withholding obligations on equity award settlements	(8,997)	(9,133)
Net cash provided by (used in) financing activities	<u>(6,090)</u>	<u>(5,793)</u>
Net increase (decrease) in cash, cash equivalents, and restricted cash	(40,501)	17,217
Cash, cash equivalents, and restricted cash at beginning of period	172,559	249,360
Cash, cash equivalents, and restricted cash at end of period	<u>\$ 132,058</u>	<u>\$ 266,577</u>
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid for income taxes	\$ 410	\$ 121
<b>Non-cash investing and financing activities:</b>		
Purchases of property and equipment included in liabilities	\$ 79	\$ 248
Stock-based compensation capitalized as internal-use software costs	\$ 758	\$ 701

See accompanying notes to condensed consolidated financial statements.

**AMPLITUDE, INC.**  
**Notes to Condensed Consolidated Financial Statements**  
**(unaudited)**

**(1) Summary of Business and Significant Accounting Policies**

**Description of Business**

Amplitude, Inc. (the “Company”) was incorporated in the state of Delaware in 2011 and is headquartered in San Francisco, California. The Company provides a Digital Analytics Platform that helps businesses understand how people are using their digital products so they can improve the digital experience provided by those digital products. The Company delivers its application over the Internet as a subscription service using a software-as-a-service (“SaaS”) model. The Company’s arrangements with customers do not provide the customer with the right to take possession of the software supporting the cloud-based application service at any time. The Company also offers customer support related to initial implementation setup, ongoing support services, and application training.

**Segment Information**

The Company has a single operating and reportable segment. The software segment provides a Digital Analytics Platform to customers using a SaaS model. The Company derives revenue primarily in the United States and manages the business activities on a consolidated basis. The accounting policies of the software segment are the same as those described in the summary of significant accounting policies.

The chief operating decision maker, who, in the Company’s case, is the Chief Executive Officer (“CEO”), assesses performance for the software segment and decides how to allocate resources based on functional expenses exclusive of stock-based compensation and amortization of acquired intangible assets as well as related tax impacts of these items. The CEO uses these functional expense captions and consolidated net loss to evaluate income generated or losses incurred from the software segment, and utilizes the metric in deciding operating decisions, including, but not limited to, investing in research and development, product developments, personnel, and other expenses. The measure of segment assets is reported on the balance sheet as total consolidated assets.

The following tables set forth operating segment information (in thousands):

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
Revenue	\$ 79,953	\$ 72,624
Less:		
Cost of revenue <sup>(1)</sup>	18,755	17,145
Research and development <sup>(1)</sup>	15,454	13,421
Sales and marketing <sup>(1)</sup>	35,866	33,521
General and administrative <sup>(1)</sup>	11,995	10,616
Other segment expenses	22,081	22,626
Other income	(2,745)	(3,671)
Provision for income taxes	778	426
Consolidated net loss	<u>\$ (22,231)</u>	<u>\$ (21,460)</u>

(1) Amounts exclude other segment expenses as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
Stock-based compensation expense and related employer payroll taxes	\$ 21,777	\$ 22,313
Amortization of acquired intangible assets	304	313
Total other segment expenses	<u>\$ 22,081</u>	<u>\$ 22,626</u>

**Basis of Presentation and Principles of Consolidation**

The condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“U.S. GAAP” or “GAAP”) and include the accounts of Amplitude, Inc. and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation. The reporting currency of the Company is the United States dollar. The functional currency of the Company’s foreign subsidiaries is also the United States dollar.

The unaudited condensed consolidated balance sheet as of December 31, 2024 included herein was derived from the audited financial statements as of that date, but does not include all disclosures, including certain notes required by U.S. GAAP on an annual reporting basis. In management's opinion, the unaudited condensed consolidated financial statements reflect all normal recurring adjustments necessary to state fairly the balance sheet, statements of operations and comprehensive loss, statements of stockholders' equity, and statements of cash flows for the interim periods, but are not necessarily indicative of the results of operations to be anticipated for the full fiscal year or any future period.

These condensed consolidated financial statements 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 year ended December 31, 2024 (the "2024 Form 10-K").

### ***Use of Estimates***

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the condensed consolidated financial statements and accompanying notes. These estimates are based on information available as of the date of the financial statements and may involve subjective or significant judgment by the Company; therefore, actual results could differ from the Company's estimates. Items subject to such estimates and assumptions include, but are not limited to the:

- expected period of benefit for deferred commissions;
- useful lives of long-lived assets;
- valuation of goodwill and intangible assets;
- recognition, measurement, and valuation of deferred tax assets and income tax uncertainties; and
- incremental borrowing rates used for operating leases.

### ***Concentration of Risk and Significant Customers***

Financial instruments that subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, marketable securities, and accounts receivable. Although the Company deposits its cash with high-quality, credit-rated financial institutions, the deposits, at times, may exceed federally insured limits. The Company has not experienced any losses on its deposits of cash and cash equivalents.

No customer accounted for 10% or more of total revenue for the three months ended March 31, 2025 and 2024. As of March 31, 2025 and December 31, 2024, no customer represented 10% or more of accounts receivable.

### ***Significant Accounting Policies***

The Company's significant accounting policies are described in the 2024 Form 10-K. There have been no significant changes to these policies that have had a material impact on the Company's condensed consolidated financial statements and related notes for the three months ended March 31, 2025.

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

In December 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures, which requires that an entity, on an annual basis, disclose additional income tax information, primarily related to the rate reconciliation and income taxes paid. The amendment in the ASU is intended to enhance the transparency and decision usefulness of income tax disclosures. The amendments in this ASU are effective for annual periods beginning after December 15, 2024. The Company is currently evaluating the impact of the new standard on its consolidated financial statements which is expected to result in enhanced disclosures.

In November 2024, the FASB issued ASU 2024-03, Income Statement-Reporting Comprehensive Income-Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses, requiring public entities to disclose additional information about specific expense categories in the notes to the financial statements on an interim and annual basis. ASU 2024-03 is effective for fiscal years beginning after December 15, 2026, and for interim periods beginning after December 15, 2027, with early adoption permitted. The Company is currently evaluating the impact of adopting ASU 2024-03.

## (2) Revenue from Contracts with Customers

### *Deferred Revenue and Remaining Performance Obligations*

The amount of revenue recognized in the three months ended March 31, 2025 that was included in deferred revenue as of December 31, 2024 was \$57.5 million.

As of March 31, 2025 and December 31, 2024, unrecognized transaction price related to remaining performance obligations was \$325.9 million and \$308.6 million, respectively. The Company's remaining performance obligations as of March 31, 2025 and December 31, 2024 are expected to be recognized as follows (in thousands):

	<b>As of March 31, 2025</b>	<b>As of December 31, 2024</b>
Less than or equal to 12 months	\$ 233,801	\$ 223,320
Greater than 12 months	92,068	85,315
<b>Total remaining performance obligations</b>	<b>\$ 325,869</b>	<b>\$ 308,635</b>

### *Disaggregation of Revenue*

The following table shows the Company's disaggregation of revenue by geographic areas, as determined based on the address of the Company's customers (in thousands):

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
United States	\$ 48,634	\$ 43,243
International	31,319	29,381
<b>Total revenue</b>	<b>\$ 79,953</b>	<b>\$ 72,624</b>

### *Deferred Commissions*

Commissions paid upon the initial acquisition of a contract are deferred and then amortized on a straight-line basis over a period of benefit, determined to be five years. Commissions paid for subsequent renewals are amortized over the renewal term. The following table represents a roll forward of the Company's deferred commissions for the three months ended March 31, 2025 and 2024 (in thousands):

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
Beginning balance	\$ 42,651	\$ 38,386
Additions to deferred commissions	4,612	3,227
Amortization of deferred commissions	(3,906)	(3,352)
Ending balance	43,357	38,261
Deferred commissions, current portion	15,412	13,190
Deferred commissions, net of current portion	27,945	25,071
<b>Total deferred commissions</b>	<b>\$ 43,357</b>	<b>\$ 38,261</b>

### (3) Balance Sheet Components

The following tables show the Company's financial statement details as of March 31, 2025 and December 31, 2024.

#### *Cash, Cash Equivalents and Restricted Cash*

The following table represents the Company's cash, cash equivalents, and restricted cash at each period end (in thousands):

	As of March 31,		As of December 31,	
	2025	2024	2024	2023
Cash and cash equivalents	\$ 131,173	\$ 265,705	\$ 171,678	\$ 248,491
Restricted cash, current	885	—	881	—
Restricted cash, noncurrent	—	872	—	869
Total cash, cash equivalents, and restricted cash	<u>\$ 132,058</u>	<u>\$ 266,577</u>	<u>\$ 172,559</u>	<u>\$ 249,360</u>

#### *Prepaid Expenses and Other Current Assets*

Prepaid expenses and other current assets consisted of the following (in thousands):

	As of March 31, 2025	As of December 31, 2024
Prepaid hosting	\$ 6,896	\$ 6,128
Other prepaid expenses and other assets	11,997	14,225
Total prepaid expense and other current assets	<u>\$ 18,893</u>	<u>\$ 20,353</u>

#### *Accrued Expenses*

Accrued expenses consisted of the following (in thousands):

	As of March 31, 2025	As of December 31, 2024
Accrued hosting	\$ 3,366	\$ 1,151
Accrued commission and bonus	9,516	17,215
Accrued payroll and employee related taxes	3,543	2,500
Accrued sales tax	569	429
2021 Employee Stock Purchase Plan withholding	1,946	811
Operating lease liabilities, current	3,290	3,812
Customer refunds and credits	1,113	1,300
Non-income tax liabilities	1,271	1,058
Other accrued liabilities	7,291	5,575
Total accrued expenses	<u>\$ 31,905</u>	<u>\$ 33,851</u>

#### (4) Fair Value Measurements

The following table summarizes, for financial assets measured at fair value, the respective fair value and classification by level of input within the fair value hierarchy (in thousands):

	As of March 31, 2025			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
<b>Level 1:</b>				
<b>Cash equivalents<sup>(1)</sup></b>				
Money market funds	\$ 115,019	\$ —	\$ —	\$ 115,019
<b>Level 2:</b>				
<b>Available-for-sale securities</b>				
U.S. governmental and agency securities	151,536	326	—	151,862
<b>Total</b>	<u>\$ 266,555</u>	<u>\$ 326</u>	<u>\$ —</u>	<u>\$ 266,881</u>
	As of December 31, 2024			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
<b>Level 1:</b>				
<b>Cash equivalents<sup>(1)</sup></b>				
Money market funds	\$ 137,374	\$ —	\$ —	\$ 137,374
<b>Level 2:</b>				
<b>Cash equivalents<sup>(1)</sup></b>				
U.S. governmental and agency securities	12,826	—	—	12,826
<b>Available-for-sale securities</b>				
U.S. governmental and agency securities	126,655	6	—	126,661
<b>Total</b>	<u>\$ 276,855</u>	<u>\$ 6</u>	<u>\$ —</u>	<u>\$ 276,861</u>

(1) Included in "Cash and cash equivalents" in the Company's condensed consolidated balance sheets as of March 31, 2025 and December 31, 2024, in addition to cash of \$16.2 million and \$21.5 million, respectively.

The Company uses quoted prices in active markets for identical assets to determine the fair value of the Company's Level 1 investments. The fair value of the Company's Level 2 investments is determined using pricing based on quoted market prices or alternative market observable inputs.

The fair value of the Company's available-for-sale securities as of March 31, 2025, by remaining contractual maturities, was as follows (in thousands):

	<b>As of March 31, 2025</b>
Due in one year or less	\$ 77,867
Due in greater than one year	73,995
<b>Total</b>	<b>\$ 151,862</b>

## (5) Intangible Assets, Net

### *Intangible Assets Other Than Goodwill*

Intangible assets, net consisted of the following (in thousands):

	<b>As of March 31, 2025</b>			<b>As of December 31, 2024</b>		
	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Net Carrying Amount</b>	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Net Carrying Amount</b>
Developed technology	\$ 9,250	\$ (5,890)	\$ 3,360	\$ 9,250	\$ (5,708)	\$ 3,542
Customer related	1,631	(981)	650	1,631	(880)	751
Trade name	90	(41)	49	90	(19)	71
<b>Intangible assets, net</b>	<b>\$ 10,971</b>	<b>\$ (6,912)</b>	<b>\$ 4,059</b>	<b>\$ 10,971</b>	<b>\$ (6,607)</b>	<b>\$ 4,364</b>

Amortization expense of intangible assets was \$0.3 million for each of the three months ended March 31, 2025 and 2024.

As of March 31, 2025, future amortization expense is expected to be as follows (in thousands):

	<b>Amount</b>
Remainder of 2025	\$ 840
2026	972
2027	923
2028	741
2029	583
<b>Total</b>	<b>\$ 4,059</b>

## (6) Stockholders' Equity and Equity Incentive Plans

### *Preferred stock*

In connection with the direct listing of the Company's Class A common stock on the Nasdaq Capital Market (the "Direct Listing") on September 21, 2021, an amended and restated certificate of incorporation of the Company was filed with the Secretary of State of the State of Delaware, which authorized the issuance of 20 million shares of undesignated preferred stock with a par value of \$0.00001 per share and rights and preferences, including voting rights, designated from time to time by the Company's board of directors.

### *Common Stock*

The Company has two classes of common stock: Class A common stock and Class B common stock. The Company's amended and restated certificate of incorporation authorizes the issuance of 600 million shares of Class A common stock and 600 million shares of Class B common stock. The shares of Class A common stock and Class B common stock are identical, except with respect to voting, conversion, and transfer rights. Each share of Class A common stock is entitled to one vote. Each share of Class B common stock is entitled to five votes. Class A and Class B common stock each have a par value of \$0.00001 per share and are referred to as common stock throughout the notes to the condensed consolidated financial statements, unless otherwise noted. Holders of common stock are entitled to receive any dividends whenever funds are legally available and if declared by the Company's board of directors.

Shares of Class B common stock may be converted to Class A common stock at any time at the option of the stockholder. Shares of Class B common stock will also automatically convert into one share of Class A common stock upon any transfer, except for certain permitted transfers described in the Company's amended and restated certificate of incorporation. In addition, each share of Class B common stock held by the Company's three cofounders (or any of such founder's affiliates) will convert automatically into one share of Class A common stock on the earlier of: (i) the death or incapacity of such founder or (ii) the date that is six months following the date on which such founder is no longer an employee or director of the Company (unless such founder has rejoined the Company during such six-month period). Each outstanding share of the Company's Class B common stock will also convert automatically into one share of Class A common stock on the date that is six months following the date on which no founder is an employee or director of the Company (unless a founder has rejoined the Company during such six-month period). In addition, any transfer by a founder (or such founder's affiliates) to one or more of the other founders (or such founders' affiliates) will not result in the automatic conversion of such shares of Class B common stock to Class A common stock. Once converted into Class A common stock, the Class B common stock may not be reissued.

The Company has reserved shares of its common stock as follows:

	<b>As of March 31, 2025</b>	<b>As of December 31, 2024</b>
<b>2014 Stock Option and Grant Plan and 2021 Incentive Award Plan:</b>		
Equity plan stock options outstanding	10,955,172	11,501,725
RSUs outstanding	12,526,884	13,519,769
Shares available for future issuance	24,641,128	18,310,859
<b>2021 Employee Stock Purchase Plan:</b>		
Shares available for future issuance	6,102,408	4,810,524
<b>Total reserved shares</b>	<b>54,225,592</b>	<b>48,142,877</b>

### ***Equity Incentive Plans***

#### ***2014 Stock Option and Grant Plan***

In December 2014, the Company adopted its 2014 Stock Option and Grant Plan (as amended, the "2014 Plan"), pursuant to which shares of the Company's common stock were reserved for the issuance of stock options (incentive and non-statutory), restricted stock units ("RSUs"), and restricted stock to employees, directors, and consultants under terms and provisions established by the Company's board of directors and approved by the Company's stockholders. The 2014 Plan was terminated in September 2021 in connection with the Direct Listing but continues to govern the terms of outstanding awards that were granted prior to the termination of the 2014 Plan. No further equity awards will be granted under the 2014 Plan. With the establishment of the 2021 Incentive Award Plan (the "2021 Plan") as further discussed below, upon the expiration, forfeiture, cancellation, or reacquisition of any shares of Class A common stock underlying outstanding stock-based awards granted under the 2014 Plan, an equal number of shares of Class A common stock will become available for grant under the 2021 Plan.

#### ***2021 Incentive Award Plan***

In August 2021, the Company's board of directors adopted, and its stockholders approved, the 2021 Plan, which became effective in connection with the Direct Listing. The 2021 Plan provides for the grant of incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock awards, RSU awards, performance bonus awards, performance stock units, dividend equivalent awards and other forms of equity compensation (collectively, "equity awards"). As of March 31, 2025, a total of 24,641,128 shares of the Company's Class A common stock have been reserved for issuance under the 2021 Plan in addition to (i) any shares available for issuance under the 2014 Plan as of the effective date of the 2021 Plan, (ii) the number of shares represented by awards outstanding under the Company's 2014 Plan ("Prior Plan Awards") that become available upon the expiration, forfeiture, cancellation, or reacquisition of any shares of Class A common stock underlying outstanding stock awards granted under the 2014 Plan, and (iii) an annual increase on the first day of each fiscal year beginning in 2022 and ending in 2031, equal to the lesser of (A) 5% of the shares of the Company's common stock outstanding (on an as-converted basis) on the last day of the immediately preceding

fiscal year and (B) such smaller number of shares of stock as determined by the Company's board of directors; provided, however, that no more than 88,000,000 shares of stock may be issued upon the exercise of incentive stock options.

#### Stock Option Awards

Stock options granted under the 2014 Plan and the 2021 Plan (collectively, the “combined stock plans”) generally vest based on continued service over four years.

Option activity under the combined stock plans for the three months ended March 31, 2025 is set forth below:

	Outstanding stock options	Weighted average exercise price	Weighted average remaining contractual life (years)	Aggregate intrinsic value (in thousands)
Balances as of December 31, 2024	11,501,725	\$ 4.41	5.25	\$ 70,628
Granted	—	—		
Exercised	(533,869)	2.85		
Cancelled/forfeited	(12,684)	4.52		
Balances as of March 31, 2025 <sup>(1)</sup>	<u>10,955,172</u>	\$ 4.48	5.03	\$ 62,501
Exercisable as of March 31, 2025	<u>10,619,531</u>	\$ 4.17	4.96	\$ 63,929

(1) As no forfeitures are estimated due to the Company’s adoption of ASU No. 2016-09, all options are vested or expected to vest. As of March 31, 2025, no options were outstanding that were subject to a future performance condition.

The aggregate intrinsic values of options are calculated as the difference between the exercise price of the options and the market price for shares of the Company’s Class A common stock as of each period-end. The total intrinsic value of options exercised for the three months ended March 31, 2025 and 2024 was \$3.9 million and \$5.8 million, respectively.

No stock options were granted in the three months ended March 31, 2025 and 2024. No tax benefits were realized from options during the periods.

As of March 31, 2025, total unrecognized stock-based compensation expense related to options outstanding under the combined stock plans was \$2.6 million. This unrecognized expense as of March 31, 2025 is expected to be recognized over the weighted average remaining vesting period of 2.14 years. As of March 31, 2025, the Company had 312,000 shares of non-employee stock options outstanding under the combined stock plans.

The fair value of each option granted to employees under the 2021 Plan is estimated on the grant date using the Black-Scholes pricing model.

#### Restricted Stock Units

RSUs granted under the 2021 Plan generally vest based on continued service. During the three months ended March 31, 2025 and 2024, the Company recorded \$20.5 million and \$19.7 million in stock-based compensation related to RSUs, respectively.

The total fair value of RSUs vested during the three months ended March 31, 2025 and 2024 was \$21.7 million and \$20.6 million, respectively. As of March 31, 2025, total unrecognized stock-based compensation expense related to RSUs was \$127.7 million. This unrecognized expense as of March 31, 2025 is expected to be recognized over the weighted average remaining vesting period of 2.05 years. As of March 31, 2025, the Company had 206,498 shares of non-employee RSUs outstanding under the combined stock plans.

RSU activity during the three months ended March 31, 2025 was as follows:

	Restricted stock units	Weighted-average grant date fair value per share
Balance as of December 31, 2024	13,519,769	\$ 11.02
Granted	1,444,911	11.46
Vested	(1,804,908)	12.32
Cancelled/forfeited	(632,888)	11.20
Balance as of March 31, 2025	<u>12,526,884</u>	<u>\$ 10.88</u>

#### 2021 Employee Stock Purchase Plan

In August 2021, the Company's board of directors adopted, and its stockholders approved, the 2021 Employee Stock Purchase Plan (the "ESPP"), which became effective in connection with the Direct Listing. The ESPP authorizes the issuance of shares of Class A common stock pursuant to purchase rights granted to employees. As of March 31, 2025, a total of 6,102,408 shares of the Company's Class A common stock have been reserved for future issuance under the ESPP, in addition to any annual automatic evergreen increases in the number of shares of Class A common stock reserved for future issuance under the ESPP. The ESPP offers employees the option to purchase shares through a series of consecutive 12-month offering periods on each May 15th and November 15th (with two six-month purchase periods during each offering period). The price at which Class A common stock is purchased under the ESPP is equal to the lower of (i) 85% of the closing trading price per share of the Company's Class A common stock on the first trading date of an offering period in which a participant is enrolled or (ii) 85% of the closing trading price per share on the purchase date, which will occur on the last trading day of each purchase period, or such other price designated by the administrator.

The ESPP offers a rollover feature pursuant to which, if the fair market value of a share of Class A common stock on the first purchase date is lower than the fair market value on the first trading day of the offering period, the respective offering period will terminate and each participant will be automatically enrolled in the offering period that commences immediately following the purchase date.

As of March 31, 2025, 1.3 million shares have been purchased under the ESPP. During the three months ended March 31, 2025 and 2024, the Company recognized \$0.3 million and \$0.4 million of stock-based compensation expense related to the ESPP, respectively. As of March 31, 2025, total unrecognized compensation cost related to the ESPP was \$0.3 million, which will be amortized over a weighted average period of 0.36 years.

Stock-based compensation expense, net of actual forfeitures is reflected in the condensed consolidated statements of operations and comprehensive loss (in thousands):

	Three Months Ended March 31,	
	2025	2024
Cost of revenue	\$ 1,267	\$ 1,474
Research and development	7,506	8,914
Sales and marketing	7,819	6,871
General and administrative	4,005	3,805
Total stock-based compensation expense	<u>\$ 20,597</u>	<u>\$ 21,064</u>

#### (7) Income Taxes

The Company had an effective tax rate of (3.6)% and (2.0)% for the three months ended March 31, 2025 and 2024, respectively. The Company continues to incur U.S. operating losses and has minimal profits in its foreign jurisdictions.

During the three months ended March 31, 2025 and 2024, the Company evaluated all available evidence, both positive and negative, including historical levels of income, and expectations and risks associated with estimates of future taxable income, and determined that it is more likely than not that its net deferred tax assets will not be realized in the United States. Due to uncertainties surrounding the realization of the deferred tax assets, the Company continues to maintain a full valuation allowance against its net deferred tax assets within the United States.

## (8) Operating Leases

Supplemental cash flow information related to operating leases was as follows (in thousands):

	<b>Three Months Ended March 31, 2025</b>	
Right-of-use assets obtained in exchange for new operating lease liabilities	\$	1,087
Cash paid for operating lease liabilities	\$	1,426

Future minimum lease payments under non-cancellable operating leases with initial lease terms in excess of one year included in the Company's lease liabilities as of March 31, 2025 were as follows (in thousands):

Year ending December 31:	
Remainder of 2025	2,834
2026	1,685
2027	994
2028	47
2029 and thereafter	—
Total undiscounted operating lease payments	\$ 5,560
Less: imputed interest	(191)
Total operating lease liabilities	\$ 5,369

## (9) Commitments and Contingencies

### *Operating Leases*

In March 2025, the Company entered into a new lease agreement for its principal executive office located in San Francisco, with a total commitment of \$8.7 million. The lease will commence in November 2025 with an expiration date in fiscal 2029. The Company will recognize the related right-of-use assets and liabilities, which have not yet been determined, at the respective lease commencement date.

### *Legal Matters*

On February 14, 2024, a putative securities class action captioned Chicago & Vicinity Laborers' District Council Pension Fund v. Amplitude, Inc., et al., Case No. 3:24-cv-00898 (the "Securities Class Action") was filed in the United States District Court for the Northern District of California, naming the Company, its Chief Executive Officer, and its former Chief Financial Officer as defendants. The lawsuit is purportedly brought on behalf of all those who purchased or acquired the Company's common stock between September 21, 2021 and February 16, 2022. The complaint alleges claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended, based on allegedly false or misleading statements related to the Company's business and financial outlook. The lawsuit seeks unspecified damages and other relief. The defendants filed a motion to dismiss the complaint on July 12, 2024, which was granted with leave to amend on October 2, 2024. The plaintiffs filed an amended complaint on October 23, 2024. The defendants filed a motion to dismiss the amended complaint on November 13, 2024, and, on January 13, 2025, the court dismissed the amended complaint with prejudice and entered judgment in favor of the defendants.

On June 10, 2024, a shareholder derivative complaint captioned Hawkins v. Spenser Skates, et al., Case No. 3:24-cv-03460 (the "Derivative Action") was filed in the United States District Court for the Northern District of California, naming the Company's Chief Executive Officer, its former Chief Financial Officer, and the current and former members of the Company's board of directors as defendants. The complaint, purportedly brought on behalf of the Company, alleges claims for breach of fiduciary duty, unjust enrichment, waste of corporate assets, abuse of control, gross mismanagement, and contribution for alleged wrongdoing by the Company's directors and officers from September 21, 2021 through February 16, 2022. The complaint seeks unspecified damages and other relief. The Derivative Action was stayed pending a resolution of any motions to dismiss the Securities Class Action. Following the dismissal of the Securities Class Action on January 13, 2025, the Derivative Action was dismissed without prejudice on February 21, 2025.

On August 8, 2024, a putative privacy class action captioned Atkins v. Amplitude, Inc., Case No. 3:24-cv-04913 was filed in the United States District Court for the Northern District of California, naming the Company as a defendant. The lawsuit is purportedly brought on behalf of all individuals who downloaded and used an application on their mobile device that embedded the Company's Software Development Kit ("SDK") and did not publicly disclose the Company in the application's notices or disclosures. The complaint asserts claims under the Federal Wiretap Act, California Wiretap Act, California Invasion of Privacy Act, and California

Comprehensive Computer Data Access and Fraud Act. The complaint seeks statutory damages and other relief. The plaintiffs filed an amended complaint on November 15, 2024. The Company filed a motion to dismiss the amended complaint on January 7, 2025, the plaintiffs filed their opposition brief on February 11, 2025, and the Company filed its reply on March 4, 2025. The Company also filed a motion to compel arbitration on April 8, 2025, and the plaintiffs filed their opposition brief on May 6, 2025. The Company's motion to dismiss and motion to compel arbitration are pending and set for hearing on June 3, 2025.

On September 18, 2024, an individual privacy action captioned *Shah v. Amplitude, Inc.*, Case No. 2:24-cv-08155-MEMF-JPR was filed in the United States District Court for the Central District of California, naming the Company as a defendant. The lawsuit is brought by an individual who alleges to have used an application on his mobile device that embedded the SDK without explicitly identifying the Company in the application's notices or disclosures. The complaint asserts claims under the Federal Wiretap Act, California Wiretap Act, California Invasion of Privacy Act, and California Comprehensive Computer Data Access and Fraud Act. The complaint seeks statutory damages and other relief. On December 4, 2024, the court stayed the case pending final resolution of *Atkins v. Amplitude, Inc.*, Case No. 3:24-cv-04913 (N.D. Cal.).

On October 7, 2024, a putative privacy class action captioned *Willey v. Amplitude, Inc.*, Case No. 1:24-cv-07577 was filed in the United States District Court for the Southern District of New York. The lawsuit was purportedly brought on behalf of all persons who accessed the Oscar Health website or application in Pennsylvania and entered information in response to prompts in the "Find a Plan" function. The complaint alleged that the Company's services operate on the Oscar Health website and application to intercept information submitted by users for a health insurance quote. The complaint asserted a claim under Pennsylvania's Wiretapping and Electronic Surveillance Act. The complaint sought unspecified damages and other relief. On December 5, 2024, the plaintiff voluntarily dismissed the case and re-filed in the Superior Court of the State of California. The Company removed the case to the United States District Court for the Northern District of California on December 16, 2024. On January 27, 2025, the plaintiff voluntarily dismissed the case.

The Company has received, and may in the future continue to receive, claims from third parties asserting, among other things, infringement of their intellectual property rights. Future litigation may be necessary to defend the Company, its partners and its customers by determining the scope, enforceability and validity of third-party proprietary rights, or to establish its proprietary rights.

In addition to the matters discussed above, from time to time, the Company is party to litigation and other legal proceedings in the ordinary course of business. While the Company does not believe the ultimate resolution of pending legal matters is likely to have a material adverse effect on its financial position, the results of any litigation or other legal proceedings are uncertain and as such the resolution of such legal proceedings, either individually or in the aggregate, could have a material adverse effect on its business, results of operations, financial condition or cash flows. The Company records litigation accruals for legal matters, which are both probable and estimable. For legal proceedings for which there is a reasonable possibility of loss (meaning those losses for which the likelihood is more than remote but less than probable), the Company has determined that it does not have material exposure, or it is unable to develop a range of reasonably possible losses. Although no assurance may be given, the Company believes that it is not presently a party to any litigation of which the outcome, if determined adversely, would individually or in the aggregate be reasonably expected to have a material and adverse effect on the business, operating results, cash flows, or financial position. Legal fees are expensed in the period in which they are incurred.

#### (10) Net Loss Per Share

The following table presents the calculation of basic and diluted net loss per share (in thousands, except per share data):

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<u>2025</u>	<u>2024</u>
Net loss attributable to Class A and Class B common stockholders	\$ (22,231)	\$ (21,460)
Weighted-average shares used in computing net loss per share attributable to Class A and Class B common stockholders, basic and diluted	129,696	120,826
Net loss per share attributable to Class A and Class B common stockholders, basic and diluted	<u>\$ (0.17)</u>	<u>\$ (0.18)</u>

The following potential shares of common stock were excluded from the calculation of diluted net loss per share because their effect would have been anti-dilutive for the periods presented (in thousands):

	As of March 31,	
	2025	2024
Equity plan stock options outstanding	10,955	13,505
RSUs outstanding	12,527	10,091
Restricted shares	301	—
Shares issuable pursuant to the ESPP	431	374
Total	24,214	23,970

## **(11) Subsequent Events**

### ***RSU Awards***

In April 2025, the Company issued 7.0 million RSUs to its employees with service-based vesting conditions. The service-based vesting condition for these awards are satisfied over three years. The grant date fair value of the RSUs issued in April 2025 was approximately \$64.3 million.

### ***Share Repurchase Program***

On May 6, 2025, the Board approved a share repurchase program (the “Repurchase Program”), under which the Company is authorized to repurchase up to \$50.0 million of the Company’s Class A common stock. Under the Repurchase Program, the Company may repurchase shares of the Company’s outstanding Class A common stock from time to time, in such amounts as management deems appropriate, through a variety of methods, which may include open market purchases, privately negotiated transactions, block trades, accelerated share repurchase transactions, purchases through 10b5-1 trading plans, or by any combination of such methods. The timing and amount of any repurchases pursuant to the Repurchase Program will be determined based on market conditions, share price and other factors. The Repurchase Program does not have an expiration date, does not require the Company to repurchase any specific number of shares of its Class A common stock, and may be modified, suspended or terminated at any time without notice.

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

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and related notes appearing elsewhere in this Quarterly Report on Form 10-Q and our consolidated financial statements and related notes appearing in our Annual Report on Form 10-K for the year ended December 31, 2024 (the “2024 Form 10-K”). As discussed in the section titled “Special Note Regarding Forward-Looking Statements,” the following discussion and analysis contains forward-looking statements that involve risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially from those expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed in the section titled “Risk Factors” included under Part II, Item 1A below. Our historical results are not necessarily indicative of the results that may be expected for any period in the future.*

*Unless the context otherwise requires, all references in this report to “Amplitude,” the “Company,” “we,” “our,” “us,” or similar terms refer to Amplitude, Inc. and its subsidiaries.*

### **Overview**

Amplitude is a leading Digital Analytics Platform that helps businesses understand how people are using their products so they can build amazing digital experiences that increase acquisition, monetization and retention - and drive revenue growth. We work with more than 4,000 paying customers of various sizes and stages of digital maturity, across many industries, including the teams behind some of the most-beloved digital products in the world. We have experienced significant growth in recent years, with approximately 740 employees in seven global offices.

At the core of our Digital Analytics Platform is our Behavioral Graph, a proprietary, purpose-built behavioral database that is the largest of its kind. Our Behavioral Graph instantly finds patterns, makes recommendations, and connects customer actions along their journeys to the right business outcomes, like engagement, growth, and loyalty. We architected our Behavioral Graph to power numerous products, beginning with our core product analytics solution. Consistently ranked #1 in multiple categories by G2, Amplitude Analytics provides real-time product data and reconstructed user visits so cross-functional teams can understand what is working and what is not. We have since expanded our offerings to include products that enable teams to build personalized product experiences, test product changes, and improve data quality across their technology stack.

### **Key Factors Affecting Our Performance**

We believe that the growth and future success of our business depends on many factors. While each of these factors presents significant opportunities for our business, they also pose important challenges that we must successfully address in order to sustain our growth and improve our results of operations.

#### ***Customer Acquisition and Expansion***

We believe that our Digital Analytics Platform can help businesses across industries, company size, and stages of digital maturity drive better business outcomes through optimizing the digital product experience of their customers. We are focused on continuing to acquire new customers and expanding our relationships with our existing installed base to support our long-term growth. We have invested, and expect to continue to invest, in our sales and marketing efforts to drive customer acquisition.

Historically, we have been successful at efficiently growing our customer base and number of customers who have entered into and grown into larger subscriptions with us as evidenced by the growth of our number of paying customers and number of customers that represent greater than \$100,000 in annual recurring revenue (“ARR”). As of March 31, 2025 and 2024, we had 617 and 521 customers, respectively, that each represented greater than \$100,000 in ARR, representing a 18% increase year-over-year. We believe our relationship with some of the world’s most beloved product-led companies has resulted in increased brand credibility and access to many attractive growth opportunities. As of March 31, 2025 and 2024, our dollar-based net retention rate for the trailing 12 months (“TTM”) was 98% and 99%, respectively, for paying customers. Additionally, our ending dollar-based net retention rate for paying customers as of March 31, 2025 and 2024, was 101% and 97%, respectively.

#### ***Investments in Platform***

We believe that our customers will demand additional features and capabilities beyond our current platform offerings to assist them in optimizing their digital products. We have a history of, and will continue to invest significantly in, developing and delivering innovative products, features, and functionality targeted at our core customer base. In addition, we may choose to add new products and offerings or enhance our platform capabilities through acquisitions. In recent years, we have acquired companies to bolster our predictive analytics and data instrumentation capabilities and most recently we acquired CommandAI to provide intuitive, AI-powered

user assistance to make complex software easier to adopt and navigate. Going forward, we may pursue both strategic partnerships and acquisitions that we believe will be complementary to our business, accelerate customer acquisition, increase usage of our platform, and/or expand our product offerings in our core markets.

### ***Investing for Growth***

Our investment for growth encompasses multiple critical areas, including product expansion, our sales force, sales support, partner ecosystem, and our international presence. We continue to evolve our technology and product offerings, to ensure that we are best serving our customers' needs. For example, in September 2024, we launched Amplitude Made Easy to simplify the platform experience for customers, and in June 2024, we introduced Warehouse Native to allow customers to unlock insights directly from their data warehouse. Additionally, in February 2025, after our acquisition of CommandAI, we launched Guides and Surveys which fully integrates CommandAI's cutting-edge user assistance with our Data Analytics Platform. We believe the evolution of our technology and product offerings will lead to increased retention and positive customer referrals that will continue to generate expansion opportunities within our existing installed base and from new customers. We plan to continue to invest in our research and development organization to maintain and strengthen our market leadership position, and we believe that attracting the best engineering talent will continue to be critical to our long-term success. As we continue to invest in our platform, we expect our research and development expenses, including those capitalized for internal-use software, to increase in dollar amount over time. Over the longer term, we believe these expenses as a percentage of revenue will decrease, though these expenses as a percentage of revenue could increase in the short term.

We will continue to make strategic investments in our sales efforts to pursue attractive growth opportunities and ensure customer success, particularly with larger enterprises where we have experienced significant traction to date. We also plan to invest in our channel partners, such as independent software vendors, and resellers, to extend our reach faster than we could do on our own. Although we previously experienced cost savings due to our restructuring, as we continue to invest in our sales efforts, we expect our sales and marketing expenses to increase in dollar amount over time. Over the longer term, we believe these expenses as a percentage of revenue will decrease, though these expenses as a percentage of revenue could increase in the short term.

Finally, we see opportunities to expand offices and headcount internationally to better service targeted international markets where we believe we have significant opportunity to accelerate existing traction and success. For the three months ended March 31, 2025, 39% of our revenue was generated outside the United States. As we seek to expand our business globally, we may be adversely affected by global economic and political instability. For example, as a result of the Russia-Ukraine war and related sanctions, we have terminated certain relationships with customers in Russia. Some of the businesses of our customers in the impacted regions have also experienced disruptions that have affected their ability to pay for our services. See "Risk Factors—Risks Related to Our Business and Industry—Our operations are international in scope, and we plan further geographical expansion, creating a variety of operational challenges."

### **Key Business Metrics**

We review a number of operating and financial metrics, including the following key metrics to evaluate our business, measure our performance, identify trends affecting our business, formulate business plans, and make strategic decisions. We are not aware of any uniform standards for calculating these key metrics, which may hinder comparability with other companies who may calculate similarly-titled metrics in a different way.

	<b>As of March 31,</b>		<b>YoY Growth</b>
	<b>2025</b>	<b>2024</b>	
	<i>(dollar values in millions)</i>		
Annual Recurring Revenue (ARR)	\$ 320	\$ 285	12%
Dollar-Based Net Retention Rate (TTM)	98%	99%	
Paying Customers with ARR of \$100,000 or greater	617	521	18%

### ***Annual Recurring Revenue***

We define ARR as the annual recurring revenue of subscription agreements at a point in time based on the terms of customers' contracts, including certain premium services that are subject to contractual subscription terms and Plus customers that we expect to recur. ARR should be viewed independently of revenue, and does not represent our U.S. GAAP revenue on an annualized basis, as it

is an operating metric that can be impacted by contract start and end dates and renewal rates. ARR is also not intended to be a forecast of revenue.

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

We calculate our dollar-based net retention rate to measure our ability to retain and expand ARR from our customers and believe it is an indicator of the value our platform delivers to customers and our future business opportunities. Our net retention rate compares our ARR from the same set of customers across comparable periods and reflects customer renewals, expansion, contraction, and attrition.

We calculate dollar-based net retention rate as of a period-end by starting with the ARR from the cohort of all customers as of 12 months prior to such period-end (the “Prior Period ARR”). We then calculate the ARR from these same customers as of the current period-end (the “Current Period ARR”). Current Period ARR includes any expansion and is net of contraction or attrition over the last 12 months but excludes ARR from new customers as well as any overage charges in the current period. We then divide the total Current Period ARR by the total Prior Period ARR to arrive at the dollar-based net retention rate (“NRR”). We then calculate the average of the trailing 12-month dollar-based net retention rates, to arrive at the dollar-based net retention rate (“NRR (TTM)”).

### ***Paying Customers with ARR of \$100,000 or greater***

For purposes of customer count, a customer is defined as an entity that has a unique Dunn & Bradstreet Global Ultimate (“GULT”) Data Universal Numbering System (“DUNS”) number and an active subscription contract as of the measurement date. The DUNS number is a global standard for business identification and tracking. We make exceptions for holding companies, government entities, and other organizations for which the GULT, in our judgment, does not accurately represent the Amplitude customer or the DUNS does not exist.

We define Paying Customers with ARR of \$100,000 or greater as those Paying Customers on one or more paid subscriptions that have \$100,000 or more in ARR.

We believe our ability to grow the number of paying customers on our platform, particularly those spending \$100,000 or more a year, provides a key indicator of the demand for our platform, growth of our business, and our future business opportunities. Increasing awareness of our platform and its broad range of capabilities, coupled with the mainstream adoption of cloud-based technology, has expanded the diversity of our customer base to include organizations of different sizes across virtually all industries.

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

The following table presents certain non-GAAP financial measures, along with the most directly comparable U.S. GAAP measure, for each period presented below. In addition to our results determined in accordance with U.S. GAAP, we believe these non-GAAP financial measures are useful in evaluating our operating performance. See below for a description of the non-GAAP financial measures and their limitations as an analytical tool. A reconciliation is also provided below for each non-GAAP financial measure to the most directly comparable financial measure stated in accordance with U.S. GAAP.

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands, except percentages)</i>	
Gross Profit	\$ 59,749	\$ 53,735
Non-GAAP Gross Profit	\$ 61,198	\$ 55,479
Gross Margin	75%	74%
Non-GAAP Gross Margin	77%	76%
Loss from Operations	\$ (24,198)	\$ (24,705)
Non-GAAP Income (Loss) from Operations	\$ (2,117)	\$ (2,079)
Loss from Operations Margin	(30)%	(34)%
Non-GAAP Income (Loss) from Operations Margin	(3)%	(3)%
Net Cash Provided by (Used in) Operating Activities	\$ (8,022)	\$ (48)
Free Cash Flow	\$ (9,226)	\$ (1,138)
Net Cash Provided by (Used in) Operating Activities Margin	(10)%	(0)%
Free Cash Flow Margin	(12)%	(2)%

***Non-GAAP Gross Profit, Non-GAAP Gross Margin, Non-GAAP Income (Loss) from Operations, and Non-GAAP Income (Loss) from Operations Margin***

We define non-GAAP gross profit and non-GAAP gross margin as U.S. GAAP gross profit and U.S. GAAP gross margin, respectively, excluding stock-based compensation expense and related employer payroll taxes, amortization of acquired intangible assets, and non-recurring costs such as restructuring and other related charges. Non-GAAP gross margin is calculated as non-GAAP gross profit divided by total revenue.

We define non-GAAP income (loss) from operations and non-GAAP income (loss) from operations margin as U.S. GAAP income (loss) from operations and U.S. GAAP loss from operations margin, respectively, excluding stock-based compensation expense and related employer payroll taxes, amortization of acquired intangible assets, and non-recurring costs such as restructuring and other related charges. Non-GAAP income (loss) from operations margin is calculated as non-GAAP income (loss) from operations divided by total revenue.

We exclude stock-based compensation expense and related employer payroll taxes, which is a non-cash expense, from certain of our non-GAAP financial measures because we believe that excluding this item provides meaningful supplemental information regarding operational performance. We exclude amortization of intangible assets, which is a non-cash expense, related to business combinations from certain of our non-GAAP financial measures because such expenses are related to business combinations and have no direct correlation to the operation of our business. Although we exclude these expenses from certain non-GAAP financial measures, the revenue from acquired companies subsequent to the date of acquisition is reflected in these measures and the acquired intangible assets contribute to our revenue generation. We exclude non-recurring costs from certain of our non-GAAP financial measures because such expenses do not repeat period over period and are not reflective of the ongoing operation of our business.

We use non-GAAP gross margin and non-GAAP income (loss) from operations margin in conjunction with traditional U.S. GAAP measures to evaluate our financial performance. We believe that non-GAAP gross margin and non-GAAP income (loss) from operations margin provide our management and investors consistency and comparability with our past financial performance and facilitates period-to-period comparisons of operations.

***Free Cash Flow and Free Cash Flow Margin***

We define free cash flow as net cash provided by (used in) operating activities, less cash used for purchases of property and equipment and capitalized internal-use software costs. Free cash flow margin is calculated as free cash flow divided by total revenue. We believe that free cash flow and free cash flow margin are useful indicators of liquidity that provide information to management

and investors, even if negative, about the amount of cash used in our operations other than that used for investments in property and equipment and capitalized internal-use software costs.

### **Limitations and Reconciliations of Non-GAAP Financial Measures**

Non-GAAP financial measures are presented for supplemental informational purposes only. Non-GAAP financial measures have limitations as analytical tools and should not be considered in isolation or as substitutes for financial information presented under U.S. GAAP. There are a number of limitations related to the use of non-GAAP financial measures versus comparable financial measures determined under U.S. GAAP. For example, other companies in our industry may calculate these non-GAAP financial measures differently or may use other measures to evaluate their performance. In addition, free cash flow does not reflect our future contractual commitments and the total increase or decrease of our cash balance for a given period. All of these limitations could reduce the usefulness of these non-GAAP financial measures as analytical tools. Investors are encouraged to review the related U.S. GAAP financial measures and the reconciliations of these non-GAAP financial measures to their most directly comparable U.S. GAAP financial measures and to not rely on any single financial measure to evaluate our business.

The following tables reconcile the most directly comparable U.S. GAAP financial measure to each of these non-GAAP financial measures.

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

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands, except percentages)</i>	
Gross profit	\$ 59,749	\$ 53,735
Add:		
Stock-based compensation expense <sup>(1)</sup>	\$ 1,267	\$ 1,474
Acquired intangible assets amortization	\$ 182	\$ 270
Non-GAAP Gross Profit	\$ 61,198	\$ 55,479
Non-GAAP Gross Margin	77%	76%

(1) Stock-based compensation expense-related charges include employer payroll tax-related expenses on employee stock transactions.

### **Non-GAAP Income (Loss) From Operations and Income (Loss) From Operations Margin**

	<b>Three Months Ended March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands, except percentages)</i>	
Loss from operations	\$ (24,198)	\$ (24,705)
Add:		
Stock-based compensation expense <sup>(1)</sup>	\$ 21,777	\$ 22,313
Acquired intangible assets amortization	\$ 304	\$ 313
Non-GAAP Income (Loss) from Operations	\$ (2,117)	\$ (2,079)
Non-GAAP Income (Loss) from Operations Margin	(3)%	(3)%

(1) Stock-based compensation expense-related charges include employer payroll tax-related expenses on employee stock transactions.

### **Free Cash Flow and Free Cash Flow Margin**

	Three Months Ended	
	March 31,	
	2025	2024
	<i>(in thousands, except percentages)</i>	
Net cash provided by (used in) investing activities	\$ (26,389)	\$ 23,058
Net cash provided by (used in) financing activities	(6,090)	(5,793)
Net cash provided by (used in) operating activities	(8,022)	(48)
Less:		
Purchase of property and equipment	\$ (439)	\$ (357)
Capitalization of internal-use software costs	\$ (765)	\$ (733)
Free Cash Flow	\$ (9,226)	\$ (1,138)
Free Cash Flow Margin	(12)%	(2)%

### **Components of Results of Operations**

#### **Revenue**

We generate revenue primarily from sales of subscription services for customers to access our platform. Revenue is driven primarily by the number of paying customers and the level of subscription plan. We generally recognize revenue ratably over the related contractual term beginning on the date that the platform is made available to a customer. Revenue from professional services have primarily been attributed to implementation and training services. We recognize professional services revenue as services are delivered.

#### **Cost of Revenue**

Cost of revenue consists primarily of the cost of providing our platform to our customers and consists of third-party hosting fees, personnel and related expenses for our operations and support personnel, and amortization of our capitalized internal-use software and acquired developed software. As we acquire new customers and existing customers increase their use of our platform, we expect that our cost of revenue will increase in dollar amount.

#### **Gross Profit and Gross Margin**

Gross profit, or revenue less cost of revenue, and gross margin, or gross profit as a percentage of revenue, has been and will continue to be affected by various factors, including the timing of our acquisition of new customers, renewals of, and follow-on sales to existing customers, costs associated with operating our platform, and the extent to which we expand our operations and customer support organizations. In the long term, we expect our gross profit to increase in dollar amount and our gross margin to improve as we optimize our system performance and leverage ingested data for new products though the gross margin percentage may fluctuate from quarter to quarter due to potential reinvestments into the business. The extent and timing of such investments may vary.

#### **Operating Expenses**

Our operating expenses consist of research and development, sales and marketing, and general and administrative expenses. Personnel and related expenses are the most significant component of operating expenses and consist of salaries, benefits, bonuses, stock-based compensation expense, and, in the case of sales and marketing expenses, sales commissions. Operating expenses also include an allocation of overhead costs for facilities and shared IT-related expenses. As we invest in our business, we expect our operating expenses to increase in dollar amount, and although we believe our operating expenses as a percentage of revenue will decrease over the longer term, operating expenses as a percentage of revenue could increase in the short term as we invest in product innovation and sales growth.

### ***Research and Development***

Research and development expenses consist primarily of personnel and related expenses. These expenses also include product design costs prior to the application development stage, third-party services and consulting expenses, software subscriptions, and allocated overhead costs for overhead used in research and development activities. A substantial portion of our research and development efforts are focused on enhancing our software, including researching ways to add new features and functionality to our platform. We anticipate continuing to invest in innovation and technology development, and as a result, we expect research and development expenses to increase in dollar amount but to decrease as a percentage of revenue over the longer term, though the percentage may fluctuate from quarter to quarter depending on the extent and timing of product development initiatives. In the short term, research and development costs could increase as a percentage of revenue.

### ***Sales and Marketing***

Sales and marketing expenses consist primarily of personnel and related expenses and expenses for performance marketing and lead generation, and brand marketing. These expenses also include allocated overhead costs and travel-related expenses. Sales commissions earned by our sales force that are considered incremental and recoverable costs of obtaining a subscription with a customer are deferred and amortized on a straight-line basis over the expected period of benefit of five years.

We continue to make strategic investments in our sales and marketing organization, and we expect sales and marketing expenses to remain our largest operating expense in dollar amount. Although we previously experienced cost savings due to our restructuring, we expect our sales and marketing expenses to continue to increase in dollar amount but to decrease as a percentage of revenue over the longer term, though the percentage may fluctuate from quarter to quarter depending on the extent and timing of our marketing initiatives. In the short term, sales and marketing costs could increase as a percentage of revenue.

### ***General and Administrative***

General and administrative expenses consist primarily of personnel and related expenses for our finance, human resources, information technology, and legal organizations. These expenses also include non-personnel costs, such as outside legal, accounting, and other professional fees, software subscriptions, as well as certain tax, license, and insurance-related expenses, and allocated overhead costs.

We have also incurred certain expenses as part of operating as a publicly-traded company, including professional fees and other expenses. As a public company, we expect to continue to incur costs associated with accounting, compliance, insurance, and investor relations which could fluctuate from period to period. Although we previously experienced cost savings due to our restructuring, we expect our general and administrative expenses to continue to increase in dollar amount over time but to generally decrease as a percentage of our revenue over the longer term, though the percentage may fluctuate from period to period depending on the timing and amount of our general and administrative expenses, including in the short term.

### ***Other Income (Expense), Net***

Other income (expense), net consists primarily of interest income on our cash, cash equivalents, and marketable securities holdings and foreign currency transaction gains and losses.

### ***Provision for (Benefit from) Income Taxes***

Provision for (benefit from) income taxes consists primarily of income taxes in certain foreign jurisdictions in which we conduct business. For the periods presented, the difference between the U.S. statutory rate and our effective tax rate is primarily due to the valuation allowance on deferred tax assets. Our effective tax rate is also impacted by earnings realized in foreign jurisdictions where the statutory tax rates are different from the federal statutory tax rate. We expect to maintain this full valuation allowance in U.S. jurisdictions for the foreseeable future as it is not more likely than not the deferred tax assets will be realized based on our history of losses.

## Results of Operations

The following tables set forth our results of operations for the periods presented and as a percentage of our revenue for those periods. The period-to-period comparison of financial results is not necessarily indicative of financial results to be achieved in future periods.

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands)</i>	
Revenue	\$ 79,953	\$ 72,624
Cost of revenue <sup>(1)</sup>	20,204	18,889
Gross profit	59,749	53,735
Operating expenses:		
Research and development <sup>(1)</sup>	23,533	22,953
Sales and marketing <sup>(1)</sup>	44,146	40,817
General and administrative <sup>(1)</sup>	16,268	14,670
Total operating expenses	83,947	78,440
Loss from operations	(24,198)	(24,705)
Other income (expense), net	2,745	3,671
Loss before provision for (benefit from) income taxes	(21,453)	(21,034)
Provision for (benefit from) income taxes	778	426
Net loss	\$ (22,231)	\$ (21,460)

(1) Amounts include stock-based compensation expense as follows:

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands)</i>	
Cost of revenue	\$ 1,267	\$ 1,474
Research and development	7,506	8,914
Sales and marketing	7,819	6,871
General and administrative	4,005	3,805
Total stock-based compensation expense	\$ 20,597	\$ 21,064

The following table sets forth the components of our condensed consolidated statements of operations and comprehensive loss data, for each of the periods presented, as a percentage of revenue.

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2025</b>	<b>2024</b>
Revenue	100%	100%
Cost of revenue	25%	26%
Gross margin	75%	74%
Operating expenses:		
Research and development	29%	32%
Sales and marketing	55%	56%
General and administrative	20%	20%
Total operating expenses	105%	108%
Loss from operations	(30)%	(34)%
Other income (expense), net	3%	5%
Loss before provision for (benefit from) income taxes	(27)%	(29)%
Provision for (benefit from) income taxes	1%	1%
Net loss	(28)%	(30)%

Note: Certain figures may not sum due to rounding

### Comparison of Three Months Ended March 31, 2025 to Three Months Ended March 31, 2024

#### Revenue

	Three Months Ended March 31,		\$ Change	% Change
	2025	2024		
	<i>(in thousands, except percentages)</i>			
Revenue	\$ 79,953	\$ 72,624	\$ 7,329	10%

Revenue increased \$7.3 million, or 10%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The increase in revenue was primarily due to growth of our paying customer base, partially offset by partial and full churn among existing customers which marginally outpaced our expansion of existing customers as reflected by our NRR (TTM) of 98% as of March 31, 2025.

#### Cost of Revenue and Gross Margin

	Three Months Ended March 31,		\$ Change	% Change
	2025	2024		
	<i>(in thousands, except percentages)</i>			
Cost of revenue	\$ 20,204	\$ 18,889	\$ 1,315	7%
Gross margin	75%	74%	N/A	N/A

Cost of revenue increased \$1.3 million, or 7%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The increase was primarily due to an increase of \$0.6 million in amortization of capitalized internal-use software development costs and acquired developed technology intangible assets and an increase of \$0.5 million in personnel and related expenses, including an increase in allocated overhead costs. The increase was also attributable to an increase of \$0.3 million in third-party hosting costs as we increased capacity to support paying customer usage and growth of our paying customer base.

#### Operating Expenses

	Three Months Ended March 31,		\$ Change	% Change
	2025	2024		
	<i>(in thousands, except percentages)</i>			
Research and development	\$ 23,533	\$ 22,953	\$ 580	3%
Sales and marketing	44,146	40,817	3,329	8%
General and administrative	16,268	14,670	1,598	11%
Total operating expenses	\$ 83,947	\$ 78,440	\$ 5,507	7%

#### Research and Development

Research and development expenses increased \$0.6 million, or 3%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The increase was primarily attributable to an increase of \$2.1 million in personnel and related expenses, including an increase in allocated overhead costs, offset by a decrease of \$1.2 million in stock-based compensation expense and related payroll taxes. The increase was also partially offset by a higher percentage of personnel being dedicated to new application development which resulted in \$0.6 million more capitalized as internal use software costs in the period.

### Sales and Marketing

Sales and marketing expenses increased \$3.3 million, or 8%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The increase was primarily due to an increase of \$3.2 million in personnel and related expenses, including an increase in allocated overhead costs and an increase of \$0.9 million in stock-based compensation expenses and related payroll taxes. The increases were partially offset by a decrease of \$0.5 million in marketing expenses and a decrease of \$0.4 million in the amortization of capitalized commissions.

### General and Administrative

General and administrative expenses increased \$1.6 million, or 11%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The increase was primarily attributable to an increase of \$0.4 million in personnel and related expenses, including an increase in allocated overhead costs, an increase of \$0.8 million in consulting fees, and an increase of \$0.3 million in subscription software.

### Other Income (Expense), Net

	Three Months Ended March 31,		\$ Change	% Change
	2025	2024		
	<i>(in thousands, except percentages)</i>			
Other income (expense), net	\$ 2,745	\$ 3,671	\$ (926)	(25)%

Other income (expense), net decreased \$0.9 million, or 25%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024. The decrease was primarily due to lower interest income of \$0.7 million due to a lower combined yield on investments and cash equivalents in the three months ended March 31, 2025.

### Provision for (Benefit from) Income Taxes

	Three Months Ended March 31,		\$ Change	% Change
	2025	2024		
	<i>(in thousands, except percentages)</i>			
Provision for (benefit from) income taxes	\$ 778	\$ 426	\$ 352	83%

Provision for (benefit from) income taxes increased \$0.4 million, or 83%, during the three months ended March 31, 2025 compared to the three months ended March 31, 2024, primarily due to increased foreign taxes during the three months ended March 31, 2025 compared to the three months ended March 31, 2024.

### Liquidity and Capital Resources

Since inception, we have financed operations primarily through the net proceeds we have received from the sales of our preferred stock and common stock as well as cash generated from the sale of subscriptions to our platform. We have generated losses from our operations as reflected in our accumulated deficit of \$480.1 million as of March 31, 2025. We generated negative cash flows from operating activities for the three months ended March 31, 2025; however, we have generated positive cash flows from operating activities during the years ended December 31, 2024 and 2023. Our future capital requirements will depend on many factors, including revenue growth and costs incurred to support our platform, including growth in our customer base and customer usage, increased research and development expenses to support the growth of our business and related infrastructure, and increased general and administrative expenses to support being a publicly-traded company.

As of March 31, 2025, our principal sources of liquidity were cash and cash equivalents of \$131.2 million and restricted cash of \$0.9 million. We also had \$151.9 million in marketable securities that provide additional capital resources. Additionally, a substantial source of our cash provided by operating activities is our deferred revenue, which is included on our condensed consolidated balance sheets as a liability. Deferred revenue consists of the unearned portion of billed fees for our subscriptions, which is recorded as revenue over the term of the subscription agreement. As of March 31, 2025, we had \$117.0 million of deferred revenue, all of which

was recorded as a current liability. This deferred revenue will be recognized as revenue when or as the related performance obligations are met.

We assess our liquidity primarily through our cash on hand as well as the projected timing of billings under contract with our paying customers and related collection cycles. We believe our current cash and cash equivalents on hand will be sufficient to meet our working capital and capital expenditure requirements for at least the next 12 months. In the event that additional financing is required from outside sources, we may seek to raise additional funds at any time through equity, equity-linked arrangements, and debt. If we are unable to raise additional funds when desired and at reasonable rates, our business, results of operations, and financial condition would be adversely affected. See “Risk Factors—Risks Related to Our Business and Industry—We may require additional capital to support the growth of our business, and this capital might not be available on acceptable terms, if at all.”

### **Cash Flows**

The following table shows a summary of our cash flows for the periods presented:

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2025</b>	<b>2024</b>
	<i>(in thousands)</i>	
Net cash provided by (used in) operating activities	\$ (8,022)	\$ (48)
Net cash provided by (used in) investing activities	\$ (26,389)	\$ 23,058
Net cash provided by (used in) financing activities	\$ (6,090)	\$ (5,793)

### **Operating Activities**

Our largest source of operating cash is cash collection from sales of subscriptions to our paying customers. Our primary uses of cash from operating activities are for personnel and related expenses, marketing expenses, and third-party hosting-related and software expenses. For the current period we have generated negative cash flows from operating activities; however, we have generated positive cash flows from operating activities during the years ended December 31, 2024 and 2023.

Net cash used in operating activities of \$8.0 million for the three months ended March 31, 2025 reflects our net loss of \$22.2 million, adjusted by non-cash items such as stock-based compensation expense of \$20.6 million, depreciation and amortization of \$2.3 million, and non-cash operating lease costs of \$1.1 million as well as net cash used in changes in our operating assets and liabilities of \$10.1 million. The net cash used in changes in operating assets and liabilities primarily consisted of a \$15.4 million increase in accounts receivables due to overall growth of our sales as well as timing of billings and collections partially offset by a \$7.3 million increase in deferred revenue corresponding with our increased sales.

Net cash used in operating activities of \$0.05 million for the three months ended March 31, 2024 reflects our net loss of \$21.5 million, adjusted by non-cash items such as stock-based compensation expense of \$21.1 million, depreciation and amortization of \$1.4 million, and non-cash operating lease costs of \$1.0 million as well as net cash used in changes in our operating assets and liabilities of \$1.8 million. The net cash used in changes in operating assets and liabilities primarily consisted of a \$6.8 million increase in accounts receivable due to higher customer billings and a \$5.1 million increase in prepaid expenses and other current and noncurrent assets related to an increase in prepayments made in advance for future services. These changes were primarily offset by a net increase in accrued expenses and accounts payable of \$10.8 million due to timing of payments made.

### **Investing Activities**

Net cash used in investing activities of \$26.4 million for the three months ended March 31, 2025 consisted of \$33.7 million of purchases of marketable securities, \$0.8 million of capitalized internal-use software development costs, and \$0.4 million in purchases of property and equipment. These decreases were partially offset by \$8.6 million of cash received from the maturities of marketable securities.

Net cash provided by investing activities of \$23.1 million for the three months ended March 31, 2024 consisted of \$42.5 million of cash received from the maturities of marketable securities, offset by \$18.4 million of purchases of marketable securities, \$0.7 million in capitalized internal-use software development costs, and \$0.4 million in purchases of property and equipment.

### **Financing Activities**

Net cash used in financing activities of \$6.1 million for the three months ended March 31, 2025 consisted of \$7.6 million in net tax remittance on equity awards related to the vesting of RSU awards under a withhold-to-cover method, partially offset by \$1.5 million in proceeds from the exercise of stock options.

Net cash used in financing activities of \$5.8 million for the three months ended March 31, 2024 consisted of \$7.6 million in net tax remittance on equity awards related to the vesting of RSU awards under a withhold-to-cover method, partially offset by \$1.8 million in proceeds from the exercise of stock options.

### Remaining Performance Obligations

Remaining performance obligations (“RPO”) as of March 31, 2025 and 2024, including the expected timing of recognition is as follows:

	As of March 31,		% Change
	2025	2024	
	<i>(in thousands, except percentages)</i>		
Less than or equal to 12 months	\$ 233,801	\$ 197,087	18%
Greater than 12 months	92,068	53,531	72%
Total remaining performance obligations	\$ 325,869	\$ 250,618	30%

Our RPO represents the amount of contracted future revenue that has not yet been recognized, including both deferred revenue and non-cancellable contracted amounts that will be invoiced and recognized as revenue in future periods. RPO excludes performance obligations from overages. RPO is influenced by a number of factors, including the timing of renewals, the timing of purchases, average contract terms, and seasonality. Due to these factors, it is important to review RPO in conjunction with product revenue and other financial metrics disclosed elsewhere in this Quarterly Report on Form 10-Q.

### Contractual Obligations and Commitments

During the three months ended March 31, 2025, there were no material changes in our contractual obligations and other commitments outside of those disclosed in the 2024 Form 10-K, other than an increase in our lease commitments. See Note 9 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for further information on our commitments and contingencies.

### Indemnification Agreements

In the ordinary course of business, we enter into agreements of varying scope and terms pursuant to which we agree to indemnify customers, vendors, lessors, business partners, and other parties with respect to certain matters, including, but not limited to, losses arising out of the breach of such agreements, services to be provided by us, or from intellectual property infringement claims made by third parties. Additionally, we have entered into indemnification agreements with our directors and certain officers and employees that will require us, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors, officers, or employees. No demands have been made upon us to provide indemnification under such agreements, and there are no claims that we are aware of that could reasonably be expected to have a material effect on our financial position, results of operations, or cash flows.

### Off-Balance Sheet Arrangements

For all periods presented in this Quarterly Report on Form 10-Q, we did not have any relationships with unconsolidated organizations or financial partnerships, such as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

### Critical Accounting Policies and Estimates

Our unaudited condensed consolidated financial statements are prepared in accordance with U.S. GAAP. The preparation of these unaudited condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, expenses and related disclosures. We evaluate our estimates and assumptions on an ongoing basis. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances. Our actual results could differ from these estimates. There have been no changes to our critical accounting policies and estimates, during the three months ended March 31, 2025 as compared to those disclosed in Part II, Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations of the 2024 Form 10-K.

**Recent Accounting Pronouncements**

See Note 1 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for more information regarding recent accounting pronouncements.

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

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

Our cash and cash equivalents and marketable securities primarily consist of cash on hand and highly liquid investments in money market funds and U.S. government securities. As of March 31, 2025, we had cash and cash equivalents of \$131.2 million and marketable securities of \$151.9 million. We do not enter into investments for trading or speculative purposes. Our investments are exposed to market risk due to fluctuations in interest rates, which may affect our interest income on cash and cash equivalents. However, an immediate 10% increase or decrease in interest rates would not have a material effect on the fair value of our portfolio. We therefore do not expect our operating results or cash flows to be materially affected by a sudden change in market interest rates.

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

The vast majority of our subscription agreements are denominated in U.S. dollars, with a small number of subscription agreements denominated in foreign currencies. A portion of our operating expenses are incurred outside the United States, denominated in foreign currencies, and subject to fluctuations due to changes in foreign currency exchange rates, particularly changes in the Euro, British Pound, Canadian Dollar, Singapore Dollar, Australian Dollar, and Japanese Yen. Additionally, fluctuations in foreign currency exchange rates may cause us to recognize transaction gains and losses in our condensed consolidated statements of operations and comprehensive loss. As the impact of foreign currency exchange rates has not been material to our historical operating results, we have not entered into derivative or hedging transactions, but we may do so in the future if our exposure to foreign currency becomes more significant. A hypothetical 10% increase or decrease in the relative value of the U.S. dollar to other currencies would not have a material effect on our operating results.

#### ***Inflation Risk***

We do not believe that inflation has had a material effect on our business, results of operations, or financial condition. Nonetheless, if our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs. Our inability or failure to do so could harm our business, results of operations, or financial condition.

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

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

Our management, with the participation of our principal executive officer and our principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on that evaluation, our principal executive officer and principal financial officer has concluded that as of the end of the period covered by this Quarterly Report on Form 10-Q, our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms and (ii) accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

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

There were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rules 13a-15(d) and 15d-15(d) of the Exchange Act during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### ***Inherent Limitations on Effectiveness of Controls***

Our management, including our principal executive officer and our principal financial officer, believes that our disclosure controls and procedures and internal control over financial reporting are designed to provide reasonable assurance of achieving their objectives and are effective at the reasonable assurance level. However, management does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the company have been detected. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

See “Legal Matters” in Note 9 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

### Item 1A. Risk Factors.

#### RISK FACTORS

*A description of the risks and uncertainties associated with our business is set forth below. You should carefully consider the risks and uncertainties described below, together with all of the other information in this Quarterly Report on Form 10-Q, including our condensed consolidated financial statements and related notes and the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” The occurrence of any of the events or developments described below could materially and adversely affect our business, financial condition, results of operations, and growth prospects. In such an event, the trading price of our Class A common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently believe are not material may also impair our business, financial condition, results of operations, and growth prospects.*

#### Risks Related to Our Business and Industry

***We have a limited operating history and have been growing rapidly over the last several years, which makes it difficult to forecast our future results of operations and increases the risk of your investment.***

Our revenue was \$299.3 million for the fiscal year ended December 31, 2024 and \$80.0 million and \$72.6 million for the three months ended March 31, 2025 and 2024, respectively. However, you should not rely on our historical revenue growth as an indication of our future performance.

As a result of our limited operating history and our rapid growth over the last several years, our ability to accurately forecast our future results of operations is limited and subject to a number of uncertainties, including our ability to effectively plan for and model future growth.

Our revenue growth rate may decline over time. In future periods, our revenue growth could slow or our revenue could decline for a number of reasons, including slowing demand for our Digital Analytics Platform, increased competition, changes to technology, a decrease in the growth of our overall market, or our failure, for any reason, to manage our growth effectively or to continue to take advantage of growth opportunities. We have also encountered, and will continue to encounter, risks and uncertainties frequently experienced by growing companies in rapidly changing industries, such as the risks and uncertainties described in this Quarterly Report on Form 10-Q. If our assumptions regarding these risks and uncertainties and our future revenue growth are incorrect or change, or if we do not address these risks successfully, our financial condition and results of operations could differ materially from our expectations, and our business could be materially adversely affected.

***We have a history of losses. As our costs increase, we may not be able to generate sufficient revenue to achieve and sustain profitability.***

We have experienced net losses in each period since inception. We generated net losses of \$94.3 million for the fiscal year ended December 31, 2024 and \$22.2 million and \$21.5 million for the three months ended March 31, 2025 and 2024, respectively. As of March 31, 2025, we had an accumulated deficit of \$480.1 million. We expect our costs and expenses to increase in future periods. In particular, we intend to continue to invest significant resources in:

- the development of our Digital Analytics Platform, including investments in our research and development team, the development or acquisition of new products, features, and functionality, and improvements to the scalability, availability, and security of our platform;
- our technology infrastructure, including expansion of our activities in third-party data centers that we may lease, enhancements to our network operations and infrastructure, and hiring of additional employees;
- sales and marketing;
- additional international expansion, in an effort to increase our customer base and sales; and
- general administration, including legal, accounting, and other expenses.

In addition, part of our business strategy is to focus on our long-term growth. As a result, our profitability may be lower in the near term than it would be if our strategy was to maximize short-term profitability. Significant expenditures on sales and marketing efforts, expanding our platform, products, features, and functionality, and expanding our research and development, each of which we intend to continue to invest in, may not ultimately grow our business or result in long-term profitability. If we are ultimately unable to achieve profitability at the level anticipated by industry or financial analysts and our stockholders, the trading price of our Class A common stock may decline.

Our efforts to grow our business may be costlier than we expect, or our revenue growth rate may be slower than we expect, and we may not be able to increase our revenue enough to offset the increase in operating expenses resulting from these investments. If we are unable to continue to grow our revenue, the value of our business and Class A common stock may significantly decrease.

***Our business depends on our existing customers renewing their subscriptions and purchasing additional subscriptions from us as well as attracting new customers. Any decline in our customer retention or expansion of our commercial relationships with existing customers or an inability to attract new customers would materially adversely affect our business, financial condition, and results of operations.***

In order for us to maintain or improve our revenue growth and our results of operations, it is important that our customers renew their subscriptions when existing contract terms expire and that we expand our commercial relationships with our existing customers and attract new customers. We also seek to convert customers on our free-tier, self-service option to paid subscription contracts. Our customers have no obligation to renew their subscriptions, and our customers may not renew their subscriptions with similar contract periods or at all. Some of our customers have elected not to renew their agreements with us, and it is difficult to accurately predict long-term customer retention. In addition, our ability to attract new customers will depend on market acceptance of our Digital Analytics Platform and the successful implementation of our marketing strategy.

Our customer retention and expansion and the rate at which we attract new customers may decline or fluctuate as a result of a number of factors, including our customers' satisfaction with our Digital Analytics Platform, our support capabilities, our prices and pricing plans, the prices and value of competing products, reductions in our customers' spending levels, new product releases, mergers and acquisitions affecting our customer base, or the effects of global economic conditions. We may be unable to timely address any retention issues with specific customers, which could materially adversely affect our results of operations. If our customers do not purchase additional subscriptions or renew their subscriptions, or if they renew on less favorable terms, or if we are unable to attract new customers, our revenue may decline or grow less quickly, which would materially adversely affect our business, financial condition, and results of operations.

***We expect fluctuations in our financial results and key metrics, making it difficult to project future results. If we fail to meet the expectations of securities analysts or investors with respect to our results of operations, the trading price of our Class A common stock could decline.***

Our results of operations and key metrics have fluctuated in the past and are expected to fluctuate in the future due to a variety of factors, many of which are outside of our control. As a result, our past results may not be indicative of our future performance. In addition to the other risks described herein, other factors that may cause our results of operations or key metrics to fluctuate include:

- fluctuations in demand for, or pricing of, our Digital Analytics Platform, including as a result of our introduction of new products, features, and functionality;
- fluctuations in usage of our Digital Analytics Platform;
- our ability to attract new customers;
- our ability to retain existing customers;
- customer expansion rates;
- investments in new products, features, and functionality;
- the timing of our customers' purchases;
- the speed with which customers are able to migrate data onto our platform after purchasing capacity;
- awareness of our brand on a global basis;
- fluctuations or delays in purchasing decisions in anticipation of new products, features, or functionality developed or acquired by us or our competitors;
- changes in customers' budgets and in the timing of their budget cycles and purchasing decisions;

- our ability to control costs, including our operating expenses;
- the amount and timing of costs associated with our cloud computing infrastructure, particularly the cloud services provided by Amazon Web Services (“AWS”);
- the amount and timing of payment for operating expenses, particularly research and development and sales and marketing expenses;
- the amount and timing of non-cash expenses, including stock-based compensation, goodwill impairments, and other non-cash charges;
- the amount and timing of costs associated with recruiting, training, and integrating new employees and retaining and motivating existing employees;
- the ability to identify and complete, and the effects of, mergers, acquisitions, or strategic partnerships, and the ensuing integration efforts;
- general economic, market, and industry conditions (including the current inflationary economic environment, rising interest rates, tariffs, and a potential recession), both domestically and internationally, as well as economic conditions specifically affecting industries in which our customers participate, and related difficulties in collections;
- the potential adverse impact of climate change, natural disasters, health epidemics (such as the COVID-19 pandemic or similar outbreaks of disease), political and social instability, including acts of war or other armed conflicts (including the war in Ukraine and the conflicts in the Middle East), and terrorist activities, on our business, operations, and the markets and communities in which we and our customers and partners operate and the disruption these events may cause to the global economy;
- the impact of new accounting pronouncements;
- new and changing laws, regulations, executive orders, and enforcement priorities;
- changes in regulatory or legal environments that may cause us to incur, among other things, expenses associated with compliance, particularly with respect to compliance with evolving privacy and data protection laws and regulations, as well as export control, economic and trade sanctions, anti-corruption, and anti-money laundering laws;
- the overall tax rate for our business, which may be affected by the mix of income we earn in the United States and in jurisdictions with comparatively lower tax rates, the effects of stock-based compensation, and the effects of changes in our business;
- the impact of changes in tax laws or judicial or regulatory interpretations of tax laws, which are recorded in the period such laws are enacted or interpretations are issued and may significantly affect the effective tax rate of that period;
- fluctuations in currency exchange rates and changes in the proportion of our revenue and expenses denominated in foreign currencies;
- changes in the competitive dynamics of our market, including consolidation among competitors or customers; and
- significant security breaches of, technical difficulties with, or interruptions to, the delivery and use of our platform.

Any of these and other factors, or the cumulative effect of some of these factors, may cause our results of operations to vary significantly. To the extent our results of operations fall below the expectations of investors and securities analysts who follow our stock, the trading price of our Class A common stock could decline substantially, and we could face costly lawsuits, including securities class action litigation. For example, we are currently defending against a securities class action lawsuit (“Securities Class Action”) and a shareholder derivative lawsuit (“Derivative Action”), which were filed in the United States District Court for the Northern District of California. We are also currently defending against two privacy class actions and a third privacy action. See “Legal Matters” in Note 9 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for additional information regarding the Securities Class Action, the Derivative Action and privacy actions. We have incurred and will continue to incur significant legal costs in connection with the defense of these lawsuits and management will be required to devote significant time in managing the defense of the actions.

***We expect to continue to focus on sales to larger organizations and may become more dependent on those relationships, which may increase the variability of our sales cycle and our results of operations.***

As we continue to focus on, and may become more dependent on, sales to larger organizations, we expect our sales cycle to lengthen and become less predictable. We plan our expenses based on certain assumptions about the length and variability of our sales cycle. These assumptions are based upon historical trends for sales cycles and conversion rates associated with our existing customers.

Any shift in our sales cycle may adversely affect our financial results. Factors that may influence the length and variability of our sales cycle include:

- the need to educate prospective customers about the uses and benefits of our Digital Analytics Platform;
- the discretionary nature of purchasing and budget cycles and decisions;
- the competitive nature of evaluation and purchasing processes;
- evolving functionality demands;
- announcements or planned introductions of new products, features, or functionality by us or our competitors; and
- lengthy purchasing approval processes.

Our increasing dependence on sales to larger organizations may increase the variability of our financial results. If we are unable to close one or more expected significant transactions with these customers in a particular period, or if an expected transaction is delayed until a subsequent period, our results of operations for that period, and for any future periods in which revenue from such transaction would otherwise have been recognized, may be adversely affected.

***We recognize revenue over the term of our customer contracts. Consequently, downturns or upturns in new sales may not be immediately reflected in our results of operations and may be difficult to discern.***

We generally recognize subscription revenue from customers ratably over the contracted period. As a result, a portion of the revenue we report in each quarter is derived from the recognition of deferred revenue relating to subscriptions entered into during previous quarters. Consequently, a decline in new or renewed subscriptions in a given quarter may have a small impact on our revenue results for that quarter. However, such a decline will negatively affect our revenue in future quarters. Accordingly, the effect of significant downturns in sales and market acceptance of our Digital Analytics Platform, including as a result of a general economic downturn, and potential changes in our pricing policies or rate of customer expansion or retention, may not be fully reflected in our results of operations until future periods. We may also be unable to reduce our cost structure in line with a significant deterioration in sales. In addition, a significant majority of our costs are expensed as incurred, while revenue is recognized over the contracted period of the agreement with our customer. As a result, increased growth in the number of our customers could continue to result in our recognition of more costs than revenue in the earlier periods of the terms of our customer agreements. Our subscription model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from new customers must be recognized over the applicable subscription term.

***Unfavorable conditions in our industry or the global economy, or reductions in software spending, could limit our ability to grow our business and materially adversely affect our business, financial condition, and results of operations.***

Our results of operations may vary based on the impact of changes in our industry or the global economy on us or our customers or potential customers. Our ability to grow our revenue and the profitability of our business depends, in part, on demand for software applications generally. Historically, during economic downturns there have been reductions in spending on software applications and services generally, as well as pressure for extended billing terms and other financial concessions. To the extent that economic conditions deteriorate in the United States or abroad, including as a result of inflationary pressures and the responses by central banking authorities to control such inflation, rising interest rates, debt and equity market fluctuations, bank failures, diminished liquidity and credit availability, increased unemployment rates, decreased investor and consumer confidence, political turmoil, the imposition of tariffs and any retaliatory trade protection measures or trade wars that ensue, supply chain challenges, natural catastrophes and the effects of climate change, regional and global conflicts, and terrorist attacks on the United States, Europe, the Middle East, the Asia-Pacific region, or elsewhere, our customers and prospective customers may go out of business or elect to decrease their budgets, which would limit our ability to grow our business and materially adversely affect our financial condition and results of operations. For example, high levels of inflation and rising interest rates, as recently experienced in the United States, may impact businesses across many industries, including ours, by increasing the costs of labor, employee healthcare, components, and freight and shipping, which may further constrain our customers' or prospective customers' budgets. To the extent there is a sustained general economic downturn and our Digital Analytics Platform is perceived by customers or potential customers as costly, or too difficult to deploy or migrate to, our revenue may be disproportionately affected by delays or reductions in spending on software applications. In addition, our competitors, many of whom are larger and have greater financial resources than we do, may respond to challenging market conditions by lowering prices in an attempt to attract our customers or prospective customers, and they may be less dependent on key industry events to generate sales for their products. Further, macroeconomic uncertainty may result in an increased pace of consolidation in certain industries. If this were to occur, such consolidation may result in reduced overall spending on our services, particularly if our customers are acquired by organizations that do not use our services. In connection with unfavorable macroeconomic conditions and the related impact on our customers, in April 2023, we authorized a restructuring plan that reduced our global workforce by approximately 13%. We cannot predict the timing, strength, or duration of any economic slowdown, instability, or recovery, generally or within any particular industry. If the economic conditions of the general economy or markets in

which we operate worsen from present levels, our business, financial condition, and results of operations could be materially adversely affected.

***If the market for SaaS applications develops more slowly than we expect or declines, our business would be materially adversely affected.***

Our success will depend to a substantial extent on the widespread adoption of SaaS applications in general, and of SaaS applications that look to solve aspects of digital analytics. Many organizations have invested substantial personnel and financial resources to integrate traditional on-premise business software applications into their businesses, and therefore may be reluctant or unwilling to migrate to SaaS applications. It is difficult to predict customer adoption rates and demand for our Digital Analytics Platform, the future growth rate and size of the SaaS applications market, or the entry of competitive applications. The expansion of the SaaS applications market depends on a number of factors, including the cost, performance, and perceived value associated with SaaS, as well as the ability of SaaS providers to address data security and privacy concerns. Additionally, government agencies have adopted, or may adopt, laws and regulations, and companies have adopted and may adopt policies regarding the collection and use of personal information obtained from consumers and other individuals, or may seek to access information on our platform, either of which may reduce the overall demand for our Digital Analytics Platform. If we or other SaaS providers experience data security incidents, loss of customer data, disruptions in delivery, or other problems, the market for SaaS applications, including our Digital Analytics Platform, may be negatively affected. If SaaS applications do not continue to achieve market acceptance, or there is a reduction in demand for SaaS applications caused by a lack of customer acceptance, technological challenges, weakening economic conditions, data security or privacy concerns, governmental regulation, competing technologies and products, or decreases in spending on SaaS applications, it would result in decreased revenue and our business, financial condition, and results of operations would be materially adversely affected.

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

The market for applications that look to address digital analytics is fragmented, rapidly evolving, and highly competitive, with relatively low barriers to entry. As this market continues to mature and new technologies and competitors enter the market, we expect competition to intensify. We face competition from:

- large companies that have greater name recognition, much longer operating histories, more established customers and commercial partners, and significantly greater resources than we do, such as larger sales forces and marketing budgets, broader distribution networks and global presence, and more mature intellectual property portfolios;
- in-house software systems;
- large integrated systems vendors;
- smaller companies offering alternative SaaS applications; and
- new or emerging entrants seeking to develop competing technologies.

Our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards, or customer requirements. With the introduction of new technologies, the evolution of our Digital Analytics Platform, and new market entrants, we expect competition to intensify in the future. Pricing pressures and increased competition generally could result in reduced sales, reduced margins, financial losses, or the failure of our Digital Analytics Platform to achieve or maintain more widespread market acceptance, any of which could harm our business.

Our competitors vary in size and in the breadth and scope of the products and services they offer. Further, other established SaaS providers not currently focused on digital analytics may expand their services to compete with us. Many of our current and potential competitors have established marketing relationships, access to larger customer bases, pre-existing customer relationships, and major distribution agreements with consultants, system integrators, and resellers. Certain of our competitors have partnered with, or have acquired, and may in the future partner with or acquire, other competitors to offer services, leveraging their collective competitive positions, which makes, or would make, it more difficult to compete with them. For all of these reasons, we may not be able to compete successfully against our current and future competitors, which would harm our business. For more information about the competitive landscape in which we operate, see “Part I, Item 1. Business—Competition” in our 2024 Form 10-K.

***If we fail to innovate in response to changing customer needs and technology developments and other market requirements, our business, financial condition, and results of operations would be materially adversely affected.***

Our ability to attract new customers and retain and increase revenue from existing customers depends in large part on our ability to enhance and improve our Digital Analytics Platform and to introduce new products, features, and functionality. In order to grow our business, we must develop products, features, and functionality that reflect the changing needs of customers, and we believe that the pace of innovation will continue to accelerate. The success of any enhancement to our Digital Analytics Platform depends on several factors, including timely completion, adequate quality testing, and market acceptance. Any new product, feature, or functionality that we develop may not be introduced in a timely or cost-effective manner, may contain defects, or may not achieve the market acceptance necessary to generate sufficient revenue. If we are unable to successfully develop new products, features or functionality, enhance our Digital Analytics Platform to meet customer requirements, or otherwise gain market acceptance, our business, financial condition, and results of operations could be materially adversely affected.

Because our Digital Analytics Platform is available over the internet, we need to continuously modify and enhance it to keep pace with changes in internet-related hardware, software, analytics, and database technologies and standards. In addition, we need to continue to invest in technologies, services, and partnerships that increase the types of data processed on our platform and the ease with which customers can send data into our platform. We must also continue to enhance our data sharing and data exchange capabilities so customers can share their data with internal business units, customers, and other third parties. In addition, our platform requires third-party public cloud infrastructure to operate. We must continue to innovate to optimize our offerings for these and other public clouds that our customers require, particularly as we expand internationally. Further, the markets in which we compete are subject to evolving industry standards and regulations, resulting in increasing data governance and compliance requirements for us and our customers. To the extent we expand into the public sector and other highly regulated industries, our Digital Analytics Platform may need to address additional requirements specific to those industries.

If we are unable to enhance our Digital Analytics Platform to keep pace with these rapidly evolving customer requirements, or if new technologies emerge that are able to deliver competitive products at lower prices, more efficiently, more conveniently, or more securely than our platform, our business, financial condition, and results of operations would be materially adversely affected.

***If we fail to properly develop, invest in, and manage AI Technologies used in our products and services, our business, financial condition, and results of operations could be materially adversely affected.***

We have incorporated, and expect in the future we will continue to incorporate, machine learning and generative artificial intelligence technologies (collectively, “AI Technologies”) into our product offerings. We offer our customers a suite of AI Technologies that help them achieve data insights faster. For example, we leverage large language models (“LLMs”) in certain features to aid customers in analyzing their product data.

We expect that increased investment will be required in the future to continuously improve our use of AI Technologies. As with many technological innovations, there are significant risks involved in developing, maintaining, and deploying AI Technologies and there can be no assurance that the usage of, or our investments in, such AI Technologies will always be beneficial to our products or services, or business, including our efficiency or profitability.

We are in varying stages of development in relation to our products involving AI Technologies. The continuous development, maintenance, and operation of our AI Technologies is complex, and may involve unforeseen difficulties including material performance problems, undetected defects, or errors. We may not be successful in our ongoing development and maintenance of these technologies in the face of novel and evolving technical, reputational, and market factors.

Our competitors or other third parties may incorporate AI Technologies into their products more quickly or more successfully than us, which could impair our ability to compete effectively.

We incorporate LLMs (i.e., AI models that can produce and output new data and information) into certain of our products and services. There is a risk that AI Technologies could produce inaccurate or misleading data or other discriminatory or unexpected results or behaviors, all of which could harm our reputation, business, or customer relationships. While we take measures designed to ensure the accuracy of AI-generated insights, those measures may not always be successful, and in some cases, we may need to rely on users to report such inaccuracies.

Additionally, any output data created using AI Technologies, including LLMs, may not be subject to copyright protection which may adversely affect our intellectual property rights in, or ability to commercialize or use, the output data. In the United States, a number of civil lawsuits have been initiated related to the foregoing and other concerns, the outcome of any one of which may, among other things, require us to limit the ways in which we use AI Technologies in our business. While AI-related lawsuits to date have generally focused on the AI service providers themselves, our use of any output produced by AI Technologies may expose us to

claims, increasing our risks of liability. For example, the output data produced by certain AI Technologies may include information subject to certain privacy laws or constitute an unauthorized derivative work of the copyrighted material used in training the underlying AI Technology, any of which could also create a risk of liability for us, or adversely affect our customers and our business or operations.

We use AI Technologies licensed from third parties in our products and services and our ability to continue to use such technologies at the scale we need may be dependent on access to specific third-party technology. We cannot control the availability or pricing of such third-party AI Technologies, especially in a highly competitive environment, and we may be unable to negotiate favorable economic terms with the applicable providers. If any such third-party AI Technologies become incompatible with our solutions or unavailable for use, or if the providers of such models unfavorably change the terms on which their AI Technologies are offered or terminate their relationship with us, our solutions may become less appealing to our customers and our business could be harmed.

***Issues relating to the responsible use of our technologies, including AI Technologies in our offerings, may result in reputational or financial harm and liability.***

Concerns relating to the responsible use of new and evolving technologies, such as AI Technologies, in our products and services may result in reputational or financial harm and liability and may cause us to incur costs to resolve such issues. AI Technologies pose emerging legal, security, social, and ethical issues and present risks and challenges that could affect adoption, and therefore our business. If we enable or offer solutions that draw controversy due to their perceived or actual impact on society, such as AI Technologies solutions that have unintended consequences, infringe copyright, or are controversial because of their impact on privacy, employment, or other social or economic issues, or if we are unable to develop effective internal policies and frameworks relating to the responsible development and use of AI Technologies within our product offerings, we may experience brand or reputational harm, competitive harm, financial harm, and/or legal liability. Our failure to adequately address concerns and regulations relating to the responsible use of AI Technologies by us or others could undermine public confidence and slow adoption of our products and services or cause reputational or financial harm.

***If we fail to effectively manage our growth and changes to our business over time, our business, financial condition, and results of operations would be materially adversely affected.***

We have experienced, and may continue to experience, rapid growth in our business and operations, which has placed, and may continue to place, significant demands on our management and operational and financial resources. Recent unfavorable conditions in the macroeconomic environment have constrained growth in the economy generally, and in the software industry in particular, and many of our customers have consequently experienced a downturn in their business outlook. We intend to continue to invest to expand our business, personnel, and operations, which may cause our margins to decline, and any investments we make will occur in advance of experiencing the benefits from such investments, making it difficult to determine in a timely manner if we are efficiently allocating our resources. As usage of our Digital Analytics Platform grows, we will need to devote additional resources to improving our platform's features and functionality, developing or acquiring new products, and maintaining infrastructure performance. Even if we are able to upgrade our systems and expand our personnel, any such expansion will be expensive and complex, requiring management's time and attention. We could also face inefficiencies or operational failures as a result of our efforts to scale our infrastructure. Moreover, there are inherent risks associated with upgrading, improving, and expanding our information technology systems. We cannot be sure that the expansion and improvements to our infrastructure and systems will be fully or effectively implemented on a timely basis, if at all. In addition, we will need to appropriately scale our internal business systems and our services organization, including customer support, to serve our growing customer base, particularly as our customer demographics change over time. Managing these changes will require significant expenditures and allocation of valuable management resources. If we fail to successfully manage our anticipated growth and changes to our business, the quality of our products may suffer, which could negatively affect our brand and reputation and harm our ability to attract new customers and retain existing customers. As we continue to grow, we may need to implement more complex organizational management structures or adapt our corporate culture and work environments to changing circumstances, which could have an adverse impact on our corporate culture. Any failure to preserve our culture could harm our business, including our ability to retain and recruit personnel, innovate and operate effectively, and execute on our business strategy.

***Public health crises, such as pandemics or similar outbreaks, have had, and could in the future have, an adverse impact on our business and operations, and the markets and communities in which we, our partners, and customers operate, and the impact of any public health crisis is difficult to assess or predict.***

Our business and operations, and the businesses and operations of our partners and customers, have been, and could in the future be, adversely impacted by public health crises. For example, public health measures implemented to control COVID-19's spread and

severity substantially curtailed the movement of people, goods, and services worldwide, including in regions where we and our partners and customers operate, and significantly impacted economic activity and financial markets. While we have developed, and continue to develop, strategies to help mitigate the negative effects of potential public health crises on our business and operations, such efforts may prove to be insufficient. The duration and extent of the impact of any public health crises cannot be accurately assessed or predicted at this time, and could adversely impact our business, financial condition, and results of operations.

***If our information technology systems are breached or there is otherwise unauthorized disclosure of or access to customer data, our data, or our platform, our platform may be perceived as insecure, we may lose customers or fail to attract new customers, our reputation and brand may be harmed, and we may incur significant liabilities.***

We collect and maintain information in digital form that is necessary to conduct our business, and we are increasingly dependent on information technology systems and infrastructure to operate our business. In the ordinary course of our business, we collect, store and transmit large amounts of confidential information, including intellectual property, proprietary business information, and personal information (collectively, “Confidential Information”) of customers and our employees and contractors. Our platform also stores, transmits, and processes our customers’ proprietary data, including personal or identifying information of their customers or employees. Unauthorized disclosure of, access to, or security breaches of our platform or our information technology systems could result in the loss of Confidential Information, loss of business, severe reputational damage adversely affecting customer or investor confidence, damage to our brand, diversion of management’s attention, regulatory investigations, and orders, litigation, indemnity obligations, damages for contract breach, penalties for violation of applicable laws or regulations, significant costs for remediation that may include liability for stolen assets or information and repair of system damage that may have been caused, incentives offered to customers or other business partners in an effort to maintain business relationships after a breach, and other liabilities. We have incurred, and expect to continue to incur, significant expenses to prevent security breaches, including deploying additional personnel and protection technologies, training employees, and engaging third-party experts and consultants. Even though we do not control the security measures of third parties who may have access to our Confidential Information or our platform, we may be responsible for any breach of such measures or suffer reputational harm even where we do not have recourse to the third party that caused the breach. In addition, any failure by our vendors to comply with applicable law or regulations could result in proceedings against us by governmental entities or others.

There can be no assurance that our cybersecurity risk management program and processes, including our policies, controls, or procedures, will be fully implemented, complied with, or effective in protecting our systems and information and despite the implementation of security measures, our information technology systems, as well as those of third parties with which we have relationships, are not fully secure from, and may be vulnerable to, cyberattacks, denial and degradation-of-service attacks, ransomware attacks, business email compromises, computer malware, malicious code, viruses, and social engineering (including phishing) which are prevalent in our industry and our customers’ industries. In addition, we as well as those third parties with which we have relationships, may experience attacks, unavailable systems, unauthorized access to systems or data, or disclosure due to natural disasters, terrorism, war, telecommunication and electrical failures, hacking, employee theft or misuse, human error, fraud, denial and degradation-of-service attacks, sophisticated nation-state and nation-state-supported actors, and advanced persistent threat intrusions. Electronic security attacks designed to gain access to personal, sensitive, or confidential data are increasing in number, constantly evolving, and such attacks continue to grow in sophistication. The techniques used to sabotage, or to obtain unauthorized access to, our platform, information technology systems, networks, or physical facilities in which Confidential Information is stored or through which Confidential Information is transmitted change frequently, and we may be unable to implement adequate preventative measures or stop security breaches while they are occurring. We may also experience security breaches that may remain undetected for an extended period. Even if identified, we may be unable to adequately investigate or remediate incidents or breaches due to attackers increasingly using tools and techniques that are designed to circumvent controls, to avoid detection, and to remove or obfuscate forensic evidence. As a result of our continued hybrid work environment, we may also face increased cybersecurity risks due to our reliance on internet technology and the number of our and our service providers’ employees who are, and may continue, working remotely, which may create additional opportunities for cybercriminals to exploit vulnerabilities. We have previously been, and may in the future become, the target of cyberattacks by third parties seeking unauthorized access to our Confidential Information or to disrupt our operations or ability to provide our services.

We and certain of our vendors are from time to time subject to cyberattacks and security incidents. While we do not believe that we have experienced any significant system failure, accident, or security breach to date, if such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our business operations, whether due to a loss, corruption, or unauthorized disclosure of our Confidential Information or other similar disruptions. Such an event could also expose us to risks, including an inability to provide our services and fulfill contractual demands, and could cause management distraction and the obligation to devote significant financial and other resources to mitigate such problems, which would increase our future information security costs, including through organizational changes, deploying additional personnel, reinforcing administrative, physical, and technical safeguards, further training of employees, changing third-party vendor control practices, and engaging third-party subject matter experts and consultants and reduce the demand for our technology and services. Because data security is a critical competitive

factor in our industry, we make numerous statements in our customer contracts, privacy policies, terms of service, and marketing materials providing assurances about the security of our platform, including detailed descriptions of security measures we employ. Should any of these statements be untrue or become untrue, even in circumstances beyond our reasonable control, we may face claims of misrepresentation or deceptiveness by the U.S. Federal Trade Commission (the “FTC”), state, federal, and foreign regulators, and private litigants.

Further, we have contractual and legal obligations to notify relevant stakeholders of security breaches. Most jurisdictions have enacted laws requiring companies to notify individuals, regulatory authorities, and others of security incidents or data breaches involving certain types of data. For example, we are subject to an increasing number of reporting obligations in respect of material cybersecurity incidents. These reporting requirements have been proposed or implemented by a number of regulators in different jurisdictions, may vary in their scope and application, and could contain conflicting requirements. Certain of these rules and regulations may require us to report a cybersecurity incident before we have been able to fully assess its impact or remediate the underlying issue. Efforts to comply with such reporting requirements could divert management’s attention from our incident response and could potentially reveal system vulnerabilities to threat actors. Failure to timely report incidents under these rules could also result in monetary fines, sanctions, or subject us to other forms of liability. In addition, our agreements with certain customers may require us to notify them in the event of a security incident or data breach. Such mandatory disclosures are costly, could lead to negative publicity, may cause our customers to lose confidence in the effectiveness of our security measures, and require us to expend significant capital and other resources to respond to, or alleviate problems caused by, the actual or perceived security incident or data breach and otherwise comply with the multitude of foreign, federal, state, and local laws and regulations relating to the unauthorized access to, or use or disclosure of, personal information. Additionally, as a result of a breach or other security incident, we could be subject to demands, claims, and litigation by private parties and investigations, related actions, and penalties by regulatory authorities. Further, if we fail to detect or remediate a security breach in a timely manner, or a breach otherwise affects a large amount of Confidential Information, or if we suffer a cyberattack that impacts our ability to operate our platform, we may suffer damage to our reputation and our brand, and our business, financial condition, and results of operations may be materially adversely affected. Further, although we maintain insurance coverage, our insurance coverage may not be adequate for data security breaches, indemnification obligations, or other liabilities. In addition, we cannot be sure that our existing insurance coverage and coverage for errors and omissions will continue to be available on acceptable terms or that our insurers will not deny coverage as to any future claim. Our risks are likely to increase as we continue to expand our platform, grow our customer base, and process, store, and transmit increasingly large amounts of Confidential Information.

***We could suffer disruptions, outages, defects, and other performance and quality problems with our platform or with the public cloud and internet infrastructure on which it relies, which may materially adversely affect our business, financial condition, and results of operations.***

Our business and continued growth depend in part on the ability of our customers and prospective customers to access our platform at any time and within an acceptable amount of time. Our agreements with customers typically provide for service-level commitments. If we are unable to meet these commitments or if we suffer unexcused periods of downtime for our platform, we may be contractually obligated to provide financial credits or extend the term of the subscription for the period of unexcused downtime, or our customers may be entitled to terminate their agreements and obtain a pro rata refund. We have in the past provided, and may in the future be required to provide, financial credits and pro rata refunds as a result of not being able to meet these commitments. We have experienced, and may in the future experience, disruptions, outages, defects, and other performance and quality problems with our platform or with the public cloud and internet infrastructure on which our platform relies. These problems can be caused by a variety of factors, including infrastructure changes, introductions of new functionality, vulnerabilities, and defects in proprietary and open-source software, human error or misconduct, capacity constraints due to an overwhelming number of users accessing our platform simultaneously, design limitations, or degradation or denial-of-service attacks or other cyberattacks or security-related incidents. The performance and availability of the cloud computing infrastructure that we use to host our platform and many of the internal tools we use to operate our business is outside our control; therefore, we are not in full control of whether we meet the service-level commitments under our customer agreements. As a result, our business, financial condition, and results of operations could be materially adversely affected if we suffer unscheduled downtime that exceeds the service-level commitments we have made to our customers. Any extended service outages could materially adversely affect our business and reputation.

Our Digital Analytics Platform is proprietary, and we rely on the expertise of members of our engineering, operations, product, and software development teams for its continued performance. It may become increasingly difficult and costly to maintain and improve the performance of our Digital Analytics Platform, especially during peak usage times and as our platform becomes more complex and our user traffic increases. To the extent that we do not effectively address capacity constraints, upgrade our systems as needed, and continually develop our technology and network architecture to accommodate actual and anticipated changes in technology, our business, financial condition, and results of operations may be materially adversely affected.

We depend and rely on third-party hosted cloud services and internet infrastructure in order to operate critical functions of our business. For example, our platform and internal tools use computing, storage capabilities, bandwidth, and other services provided by AWS. If these services become unavailable due to extended outages, interruptions, or because they are no longer available on commercially reasonable terms, our expenses could increase, our ability to manage our business could be interrupted, and our processes for managing sales of and delivering our Digital Analytics Platform could be impaired until we are able to identify, obtain, and implement equivalent services, if we are able to do so at all. Any of these circumstances could materially adversely affect our business, financial condition, and results of operations.

Any disruptions, outages, defects, and other performance and quality problems with our platform or with the public cloud and internet infrastructure on which it relies, or any material change in our contractual and other business relationships with any public cloud providers we contract with, could result in reduced use of our platform, increased expenses, including service credit obligations, and harm to our brand and reputation, any of which could have a material adverse effect on our business, financial condition, and results of operations.

***Real or perceived errors, failures, vulnerabilities, or bugs in our platform could materially adversely affect our business and growth prospects.***

Because our platform is complex, undetected errors, failures, vulnerabilities, or bugs may occur, especially when updates are deployed. We have discovered and expect we will continue to discover software errors, failures, vulnerabilities, and bugs in our platform and supporting information technology systems, and anticipate that certain of these errors, failures, vulnerabilities, and bugs will only be discovered and remediated after deployment to customers. Software errors, failures, vulnerabilities, and bugs in our platform or information technology systems could materially adversely affect our business and growth prospects.

***Any failure to offer high-quality product support may adversely affect our relationships with our customers, our reputation, and our business, financial condition, and results of operations.***

In using our Digital Analytics Platform, our customers depend on our product support team to resolve complex technical and operational issues. We may be unable to respond quickly enough to accommodate short-, medium-, and long-term increases in customer demand for product support. We also may be unable to modify the nature, scope, and delivery of our product support to compete with changes in product support services provided by our competitors. Increased customer demand for product support, without corresponding revenue, could increase costs and materially adversely affect our results of operations. Our sales are highly dependent on our business reputation and on positive recommendations from our existing customers. Any failure to maintain high-quality product support, or a market perception that we do not maintain high-quality product support, could materially adversely affect our reputation, our ability to sell our Digital Analytics Platform to our customers and prospective customers, and our business, financial condition, and results of operations.

***Incorrect or improper implementation or use of our Digital Analytics Platform could result in customer dissatisfaction and materially adversely affect our business, financial condition, and results of operations.***

We often assist our customers in implementing our Digital Analytics Platform (whether through us directly or through a third-party implementation partner), and they may need training in the proper use of our Digital Analytics Platform to maximize its potential and avoid inadequate performance. If we or our implementation partners fail to train customers on how to efficiently and effectively use our Digital Analytics Platform or if we fail to provide adequate product support to our customers, we may lose opportunities for additional subscriptions, customers may choose not to renew or expand the use of our Digital Analytics Platform, we may experience negative publicity or legal claims against us, and our reputation and brand may suffer. Any of these circumstances could materially adversely affect our business, financial condition, and results of operations.

***If we fail to integrate our platform with a variety of operating systems, software applications, and platforms that are developed by others, our platform may become less marketable, less competitive, or obsolete, and our business, financial condition, results of operations, and growth prospects could be materially adversely affected.***

Our customers and prospective customers expect our Digital Analytics Platform to integrate with a variety of software platforms, and we need to continuously modify and enhance our platform to adapt to changes in software, browser, and database technologies. We have developed our platform to be able to integrate with third-party SaaS applications through the interaction of application programming interfaces (“APIs”). In general, we rely on the fact that the providers of such software systems continue to allow us access to their APIs to enable these custom integrations. We are subject to the standard terms and conditions of such providers, or other agreements we may have with them, which govern the distribution, operation, and fees of such software systems, and which may be subject to change by such providers. As a result of limits or prohibitions by other parties, unacceptable terms, technical difficulties, our failure to recognize demand, or for other reasons, we may not successfully build, deploy, or offer the

integrations needed. If we fail to offer a variety of integrations or the integrations that our customers and prospective customers expect and demand, then our Digital Analytics Platform may become less marketable, less competitive, or obsolete, and our business, financial condition, results of operations, and growth prospects could be materially adversely affected.

***We do not have the history with our subscription or pricing models necessary to accurately predict optimal pricing necessary to attract new customers and retain existing customers.***

We have limited experience with respect to determining the optimal prices for our Digital Analytics Platform and, as a result, we have in the past needed, and expect in the future that we will need, to change our pricing model from time to time. As the market for our Digital Analytics Platform matures, or as new competitors introduce new products or services that compete with ours, we may be unable to attract new customers at the same price or based on the same pricing models as we have used historically. Pricing decisions may also impact the mix of adoption among our subscription plans and negatively impact our overall revenue. Although we occasionally upsell within contract terms based on customer needs, substantially all of our customer contracts have a subscription period of one year or longer, for which we primarily bill annually in advance with no obligation to renew. As a result, potential changes in our pricing policies, or our rate of customer expansion or retention, may not be fully reflected in our results of operations until future periods. Moreover, larger organizations may demand price concessions. As a result, in the future we may be required to reduce our prices, which could materially adversely affect our business, financial condition, and results of operations.

***Failure to effectively develop and expand our sales and marketing capabilities, including our relationships with channel partners, could harm our ability to increase our customer base and achieve broader market acceptance of our products and platform.***

In order to increase our sales to new and existing customers, we must expand our sales and marketing operations, including our sales force and third-party channel partners, and continue to dedicate significant resources to inbound sales and marketing programs, both domestically and internationally. Our ability to increase our customer base and achieve broader market acceptance of our products will depend, in part, on our ability to effectively organize, focus, and train our sales and marketing personnel. If we are unable to increase adoption of our Digital Analytics Platform by new and existing customers, especially enterprise customers, our business, financial condition, and results of operations may be materially adversely affected.

Our efforts to develop and expand our sales and marketing capabilities will require us to invest significant financial and other resources, including in industries and sales channels in which we have limited experience to date. We may not achieve anticipated revenue growth from expanding our sales and marketing capabilities, and our business, financial condition, results of operations, and growth prospects may be materially adversely affected, if we are unable to hire, develop, integrate, and retain talented and effective sales personnel and global systems integrators, consultancies, and digital agencies; if our new and existing sales personnel are unable to achieve desired productivity levels in a reasonable period of time; or if our sales and marketing programs are not effective.

***We may be unable to build and maintain successful relationships with our channel partners or such channel partners may fail to perform, which could materially adversely affect our business, financial condition, results of operations, and growth prospects.***

We employ a go-to-market business model whereby a portion of our revenue is generated by sales through our channel partners, such as independent software vendors and resellers, that further expand the reach of our direct sales force into additional geographies, sectors, and industries. In particular, we have entered, and intend to continue to enter, into strategic sales distributor and reseller relationships in certain international markets where we do not have a local presence. We provide certain of our channel partners with specific training and programs to assist them in selling access to our Digital Analytics Platform, but there can be no assurance that these steps will be effective. In addition, if our channel partners are unsuccessful in marketing and selling access to our Digital Analytics Platform, it would limit our expansion into certain geographies, sectors, and industries. If we are unable to develop and maintain effective sales incentive programs for our channel partners, we may not be able to incentivize these partners to sell access to our Digital Analytics Platform to customers.

Some of these partners may also market, sell, and support offerings that are competitive with ours, may devote more resources to the marketing, sales, and support of such competitive offerings, may have incentives to promote our competitors' offerings to the detriment of our own, or may cease selling access to our Digital Analytics Platform altogether. Our channel partners could subject us to lawsuits, potential liability, and reputational harm if, for example, any of our channel partners misrepresents the functionality of our Digital Analytics Platform to customers or violates laws or our or their corporate policies. Our ability to achieve revenue growth in the future will depend, in part, on our success in maintaining successful relationships with our channel partners, identifying additional channel partners, including in new markets, and training our channel partners to independently sell access to our Digital Analytics Platform. If our channel partners are unsuccessful in selling access to our Digital Analytics Platform, or if we are unable to enter into arrangements with or retain a sufficient number of high-quality channel partners in each of the regions in which we sell access to our Digital Analytics Platform and keep them motivated to sell access to our Digital Analytics Platform, our business, financial condition, results of operations, and growth prospects could be materially adversely affected.

***If our marketing strategies are not effective in attracting new customers and retaining existing customers, our business and ability to grow our revenues would be harmed.***

We rely on our marketing strategies—which consist of a combination of online and offline marketing programs such as online advertising, blogs, public relations, social media, user conferences, educational white papers and webinars, product demos, workshops, roundtables, and customer case studies, offering customers a free-tier, self-service option, and other inbound lead generation and outbound sales strategies—to drive our sales and revenue. These strategies may not continue to generate the level of sales necessary to increase our revenue. If our outbound sales efforts are unsuccessful at attracting new customers and retaining existing customers, we may be unable to grow our market share and revenue. If our customer base does not continue to grow through word-of-mouth marketing and viral adoption or outbound sales efforts, we may be required to incur significantly higher sales and marketing expenses in order to acquire new subscribers, which could materially adversely affect our business and results of operations. In addition, high levels of customer satisfaction and market adoption are central to our marketing model. Any decrease in our customers' satisfaction with our products, including as a result of actions outside of our control, could harm word-of-mouth referrals and our brand.

Additionally, many customers never convert from our free-tier, self-service option to a paid subscription contract. Further, we often depend on individuals within an organization who initiate our free-tier, self-service option being able to convince decision-makers within their organization to convert to a subscription contract. Many of these organizations have complex and multi-layered purchasing requirements. To the extent that these free-tier customers do not become paying subscribers, we will not realize the intended benefits of this marketing strategy.

***Sales efforts to larger organizations involve risks that may not be present or that are present to a lesser extent with respect to sales to smaller organizations.***

We have experienced rapid growth in our customer base since our inception. Although our growth strategy includes acquiring new customers across industries, company size, and stages of digital maturity, we believe there is a significant opportunity to continue to penetrate the largest global organizations. Sales to larger organizations involve risks that may not be present, or that are present to a lesser extent, with sales to smaller organizations, such as longer sales cycles, more complex customer requirements, substantial upfront sales costs, and less predictability in completing some of our sales. For example, enterprise customers, which we define as customers with more than 1,000 employees or \$100 million in revenue, may require considerable time to evaluate and test our Digital Analytics Platform prior to making a purchase decision and placing an order. A number of factors influence the length and variability of our sales cycle, including the need to educate potential customers about the uses and benefits of our Digital Analytics Platform, the discretionary nature of purchasing and budget cycles, and the competitive nature of evaluation and purchasing approval processes. As a result, the length of our sales cycle, from identification of the opportunity to deal closure, may vary significantly from customer to customer, with sales to enterprises typically taking longer to complete. In recent periods, the average length of our sales cycle to enterprises was four to six months, as compared to one to three months to non-enterprise customers. In addition, larger organizations may demand more features and integration services. Sales to larger organizations also may increase the variability of our financial results. If we are unable to close one or more expected significant transactions with these customers in a particular period, or if an expected transaction is delayed until a subsequent period, our results of operations for that period, and for any future periods in which revenue from such transaction would otherwise have been recognized, may be adversely affected. If we fail to effectively manage these risks associated with sales cycles and sales to larger organizations, our business, financial condition, and results of operations may be materially adversely affected.

***If we are unable to maintain and enhance our brand, our business, financial condition, and results of operations may be materially adversely affected.***

We believe that maintaining and enhancing our reputation as a differentiated and category-defining company in digital analytics is critical to our relationships with our existing customers and to our ability to attract new customers. The successful promotion of our brand attributes will depend on a number of factors, including our marketing efforts, our ability to ensure that our platform remains reliable and secure, our ability to continue to develop high-quality software, and our ability to successfully differentiate our Digital Analytics Platform from competitive products and services. In addition, independent industry analysts often provide reviews of our Digital Analytics Platform, as well as products and services offered by our competitors, and the market perception of our Digital Analytics Platform may be significantly influenced by these reviews. If these reviews are negative, or less positive as compared to those of our competitors' products and services, our brand may be adversely affected. It may also be difficult to maintain and enhance our brand in connection with sales through channel or strategic partners.

The promotion of our brand requires us to make substantial expenditures, and we anticipate that the expenditures will increase as our market becomes more competitive, as we expand into new markets, and as more sales are generated through our channel partners. To the extent that these activities yield increased revenue, this revenue may not offset the increased expenses we incur. If we do not successfully maintain and enhance our brand, our business may not grow, we may have reduced pricing power relative to

competitors, and we could lose customers or fail to attract potential customers, all of which would materially adversely affect our business, financial condition, and results of operations.

***Our operations are international in scope, and we plan further geographic expansion, creating a variety of operational challenges.***

For the year ended December 31, 2024 and the three months ended March 31, 2025 and 2024, 40%, 39%, and 40% of our revenue was generated outside the United States, respectively. A component of our growth strategy involves the further expansion of our operations and customer base internationally, which will require significant dedication of management attention and financial resources. We are continuing to adapt to and develop strategies to address international markets, but there is no guarantee that such efforts will have the desired effect. Our sales organization outside the United States is substantially smaller than our sales organization in the United States, and to date, only a very small portion of our sales has been driven by resellers or other channel partners. To the extent we are unable to effectively engage with non-U.S. customers due to our limited sales force capacity and limited channel partners, we may be unable to effectively grow in international markets.

Our current and future international business and operations involve a variety of risks, including:

- slower than anticipated public cloud adoption by international businesses;
- changes, which may be unexpected, in a specific country's or region's political, economic, or legal and regulatory environment, including Brexit, armed conflicts, pandemics, terrorist activities, tariffs, trade wars, or long-term environmental risks;
- the need to adapt and localize our Digital Analytics Platform for specific countries;
- longer payment cycles and greater difficulty enforcing contracts, collecting accounts receivable, or satisfying revenue recognition criteria, especially in emerging markets;
- new, evolving, and more stringent regulations relating to privacy and data security and the unauthorized use of, or access to, commercial and personal information, particularly in Europe;
- differing and potentially more onerous labor regulations, especially in Europe, where labor laws are generally more advantageous to employees as compared to the United States, including deemed hourly wage and overtime regulations in these locations;
- challenges inherent in efficiently managing, and the increased costs associated with, an increased number of employees over large geographic distances, including the need to implement appropriate systems, policies, benefits, and compliance programs that are specific to each jurisdiction;
- difficulties in managing a business in new markets with diverse cultures, languages, customs, legal systems, alternative dispute systems, and regulatory systems;
- increased travel, real estate, infrastructure, and legal compliance costs associated with international operations;
- currency exchange rate fluctuations and the resulting effect on our revenue and expenses, and the cost and risk of entering into hedging transactions if we choose to do so in the future;
- limitations on our ability to reinvest earnings from operations in one country to fund the capital needs of our operations in other countries;
- laws and business practices favoring local competitors or general market preferences for local vendors;
- limited or insufficient intellectual property protection or difficulties obtaining, maintaining, protecting, or enforcing our intellectual property rights, including our trademarks and patents;
- global political, social or macroeconomic events, including the war in Ukraine, the conflicts in the Middle East, and potential public health epidemics or pandemics, that could decrease economic activity in certain markets, decrease use of our products and services, or decrease our ability to import, export, or sell our products and services to existing or new customers in international markets;
- exposure to liabilities under export control, economic and trade sanctions, anti-corruption, and anti-money laundering laws, including the Export Administration Regulations, regulations administered by the Office of Foreign Assets Control, the U.S. Foreign Corrupt Practices Act ("FCPA"), U.S. bribery laws, the UK Bribery Act, and similar laws and regulations in other jurisdictions;
- increased financial accounting and reporting burdens and complexities;
- requirements or preferences for domestic products;

- differing technical standards, existing or future regulatory and certification requirements, and required features and functionality;
- burdens of complying with laws and regulations related to privacy and data security, including the E.U. General Data Protection Regulation (“GDPR”) and similar laws and regulations in other jurisdictions; and
- burdens of complying with laws and regulations related to taxation, and regulations, adverse tax burdens, and foreign exchange controls that could make it difficult to repatriate earnings and cash.

If we invest substantial time and resources to further expand our international operations and are unable to do so successfully and in a timely manner, our business, financial condition, and results of operations could be materially adversely affected.

***The war in Ukraine could materially adversely affect our business, results of operations, and financial condition.***

In February 2022, Russian military forces invaded Ukraine, and although the length, impact, and outcome of the ongoing war in Ukraine is highly unpredictable, this war has led, and could continue to lead, to significant market and other disruptions, including instability in financial markets, supply chain interruptions, political and social instability, and changes in consumer or purchaser preferences, as well as an increase in cyberattacks, intellectual property theft, and espionage.

We are continuing to monitor the situation in Ukraine and assessing its impact on our business, including our business partners and customers. Such circumstances, combined with sanctions have resulted in disruptions to our customers businesses in the impacted regions, including, at times, their ability to pay for our services. As such, we may experience a reduction in revenue from customers in the impacted regions as long as these circumstances continue.

We have no way to predict the progress or outcome of the war in Ukraine or its impacts in Ukraine, Russia, or surrounding countries as the war, and any resulting government reactions, are rapidly developing and beyond our control. The extent and duration of the war, sanctions, and resulting market disruptions could be significant and could potentially have a substantial impact on the global economy and our business for an unknown period of time. Any of the above-mentioned factors could materially adversely affect our business, financial condition, and results of operations. Any such disruptions may also magnify the impact of other risks described in this “Risk Factors” section and elsewhere in this Quarterly Report on Form 10-Q.

***We derive, and expect to continue for some time to derive, a significant portion of our revenue from our Amplitude Analytics product.***

Although we have released our Amplitude Activation, Amplitude Experiment, Amplitude Session Replay, Warehouse Native Amplitude, and Guides and Surveys products, we currently derive, and expect to continue for some time to derive, a significant portion of our revenue from our Amplitude Analytics product. As such, the continued growth in demand for, and market acceptance, of Amplitude Analytics is critical to our success. Demand for Amplitude Analytics and our other products and platform functionality is affected by a number of factors, many of which are beyond our control, such as continued market acceptance of our products by customers for existing and new use cases, the timing of development and release of new products, features, and functionality that are lower-cost alternatives introduced by us or our competitors, technological changes, and developments within the markets we serve, and growth or contraction in our addressable markets. If we are unable to continue to meet customer demands or to achieve more widespread market acceptance of our products, particularly our Amplitude Analytics product, our business, financial condition, and results of operations could be materially adversely affected.

***We invest significantly in research and development, and to the extent our research and development investments do not translate into new products or material enhancements to our current products, or if we do not use those investments efficiently, our business, financial condition, and results of operations would be materially adversely affected.***

For the year ended December 31, 2024 and the three months ended March 31, 2025 and 2024, our research and development expenses were 33%, 29%, and 32% of our revenue, respectively. If we do not spend our research and development budget efficiently or effectively on compelling innovation and technologies, our business may be harmed. Moreover, research and development projects can be technically challenging and expensive. The nature of these research and development cycles may cause us to experience delays between the time we incur expenses associated with research and development and the time we are able to offer compelling products and generate revenue, if any, from such investment. Additionally, anticipated customer demand for a product or service we are developing could decrease after the development cycle has commenced, and we would nonetheless be unable to avoid substantial costs associated with the development of any such product or service. If we expend a significant amount of resources on research and

development and our efforts do not lead to the successful introduction or improvement of products that are competitive in our current or future markets, our business, financial condition, and results of operations would be materially adversely affected.

***We agree to indemnify customers and other third parties, which exposes us to substantial potential liability.***

Our contracts with customers and other third parties may include indemnification or other provisions under which we agree to indemnify or otherwise be liable to them for losses arising from alleged infringement, misappropriation, or other violation of intellectual property rights, data protection violations, breaches of representations and warranties, damage to property or persons, or other liabilities arising from our platform or such contracts. Although we attempt to limit our indemnity obligations, an event triggering our indemnity obligations could give rise to multiple claims involving multiple customers or other third parties. These claims may require us to initiate or defend protracted and costly litigation on behalf of our customers and other third parties, regardless of the merits of these claims. We may not have adequate or any insurance coverage and may be liable for up to the full amount of the indemnified claims, which could result in substantial liability or material disruption to our business or could negatively impact our relationships with customers or other third parties, reduce demand for our products, and materially adversely affect our business, financial condition, and results of operations.

***We may require additional capital to support the growth of our business, and this capital might not be available on acceptable terms, if at all.***

We intend to continue to make investments to support our business, which may require us to engage in debt or equity financings to secure additional funds. Additional financing may not be available on terms favorable to us, if at all. If adequate funds are not available on acceptable terms, we may be unable to invest in future growth opportunities, which could materially adversely affect our business, financial condition, and results of operations. If we incur debt, the debt holders would have rights senior to holders of common stock to make claims on our assets, and the terms of any debt could restrict our operations, including our ability to pay dividends on our common stock. Furthermore, if we issue additional equity securities, stockholders will experience dilution, and the new equity securities could have rights senior to those of our common stock. Because our decision to issue securities in the future will depend on numerous considerations, including factors beyond our control, we cannot predict or estimate the amount, timing, or nature of any future issuances of debt or equity securities. As a result, our stockholders bear the risk of future issuances of debt or equity securities reducing the value of our common stock and diluting their interests.

**Risks Related to Our Intellectual Property**

***Our intellectual property rights may not protect our business or provide us with a competitive advantage, which could have a material adverse effect on our business, financial condition, and results of operations.***

To be successful, we must protect our technology and brand in the United States and other jurisdictions through trademarks, trade secrets, patents, copyrights, service marks, invention assignments, contractual restrictions, and other intellectual property rights and confidentiality procedures. Despite our efforts to implement these protections, these measures may not protect our business or provide us with a competitive advantage for a variety of reasons, including:

- our failure to obtain patents and other intellectual property rights for important innovations or maintain appropriate confidentiality and other protective measures to establish and maintain our trade secrets;
- uncertainty in, and evolution of, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights;
- potential invalidation of our intellectual property rights through administrative processes or litigation;
- any inability by us to detect infringement or other misappropriation of our intellectual property rights by third parties; and
- other practical, resource, or business limitations on our ability to enforce our rights.

Further, the laws of certain foreign countries, particularly certain developing countries, do not provide the same level of protection of corporate proprietary information and assets, such as intellectual property, trademarks, trade secrets, know-how, and records, as the laws of the United States. As a result, we may encounter significant problems in protecting and defending our intellectual property or proprietary rights in foreign jurisdictions. Additionally, we may also be exposed to material risks of theft or unauthorized reverse engineering of our proprietary information and other intellectual property, including technical data, data sets, or other sensitive information. Our efforts to enforce our intellectual property rights in such foreign countries may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop, which could have a material adverse effect on our business, financial condition, and results of operations.

We enter into confidentiality and invention assignment agreements with our employees and consultants and enter into confidentiality agreements with the parties with whom we have strategic relationships and business alliances. No assurance can be given that these agreements will be effective in controlling access to and distribution of our products and proprietary information. Further, these agreements may not prevent our competitors from independently developing technologies that are substantially equivalent or superior to our platform and offerings.

Further, litigation may be necessary to enforce our intellectual property or proprietary rights, protect our trade secrets, or determine the validity and scope of proprietary rights claimed by others. Any litigation, whether or not resolved in our favor, could result in significant expense to us, divert the efforts of our technical and management personnel, and result in counterclaims with respect to infringement of intellectual property rights by us. If we are unable to prevent third parties from infringing upon or misappropriating our intellectual property or are required to incur substantial expenses defending our intellectual property rights, our business, financial condition, and results of operations may be materially adversely affected.

***We may become subject to intellectual property disputes, which are expensive to support and, if resolved adversely, may subject us to significant liability and increased costs of doing business, which could have a material adverse effect on us.***

We compete in markets where there are a large number of patents, copyrights, trademarks, trade secrets, and other intellectual and proprietary rights, as well as disputes regarding infringement of these rights. Many of the holders of patents, copyrights, trademarks, trade secrets, and other intellectual and proprietary rights have extensive intellectual property portfolios and greater resources than we do to enforce their rights. As compared to our large competitors, our patent portfolio is relatively undeveloped and may not provide a material deterrent to such assertions or provide us with a strong basis to counterclaim or negotiate settlements. Further, to the extent assertions are made against us by entities that hold patents but are not operating companies, our patent portfolio may not provide deterrence because such entities are not concerned with counterclaims.

Any intellectual property litigation to which we become a party may require us to do one or more of the following:

- cease selling, licensing, or using products or features that incorporate the intellectual property rights that we allegedly infringe, misappropriate, or violate;
- make substantial payments for legal fees, settlement payments, subscription fee refunds, or other costs or damages, including indemnification of third parties;
- obtain a license or enter into a royalty agreement, either of which may not be available on reasonable terms, or at all, in order to obtain the right to sell or use the relevant intellectual property; or
- redesign the allegedly infringing products to avoid infringement, misappropriation, or violation, which could be costly, time-consuming, or impossible.

Intellectual property litigation is typically complex, time consuming, and expensive to resolve and would divert the resources, time, and attention of our management and technical personnel, which might seriously harm our business, financial condition, and results of operations. We may be required to settle such litigation on terms that are unfavorable to us. For example, a settlement may require us to obtain a license to continue practices found to be in violation of a third party's rights, which may not be available on reasonable terms and may significantly increase our operating expenses. A license to continue such practices may not be available to us at all. As a result, we may also be required to develop alternative, non-infringing technology or practices or discontinue the practices. The development of alternative non-infringing technology or practices would require significant effort and expense. Similarly, if any litigation to which we may be a party fails to settle and we go to trial, we may be subject to an unfavorable judgment which may not be reversible upon appeal.

Further, such litigation may also result in adverse publicity, which could harm our reputation and ability to attract or retain customers. As we grow, we may experience a heightened risk of allegations of intellectual property infringement. An adverse result in any litigation claims against us could have a material adverse effect on our business, financial condition, and results of operations.

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

We use software in our Digital Analytics Platform that is licensed from third parties pursuant to open-source licenses. Certain open-source software licenses require a user who distributes or otherwise makes available the open-source software in connection with the user’s proprietary software to disclose publicly part or all of the source code to the user’s proprietary software. The use and distribution of open-source software may entail greater risks than the use of third-party commercial software, as open-source licensors generally do not provide warranties or other contractual protections regarding infringement claims or the quality of the code. Additionally, certain open-source software licenses are difficult to interpret and require the user of such software to make the source code of any derivative works of the open-source code and certain related software available to third parties with few restrictions on the use or further distribution of such software by such third parties. As a result, we may face claims from others seeking to enforce the terms of an open-source license, including by demanding the release of derivative works of the open-source software and our proprietary source code that was developed or used in connection with such software. These claims could also result in litigation and require us to replace certain open-source software with proprietary software licensed under costly commercial licenses or require us to devote additional research and development resources to change our platform, any of which would have a material adverse effect on our business and results of operations. Although we have implemented policies to regulate the use and incorporation of open-source software into our platform, we cannot be certain that we have not incorporated open-source software in our platform in a manner that is inconsistent with such policies. Any use of open-source software inconsistent with our policies or licensing terms could materially adversely affect our business, financial condition, and results of operations.

**Risks Related to Regulatory Compliance and Legal Matters**

***We are subject to government regulation, including import, export control, economic sanctions, and trade sanctions, and anti-corruption laws and regulations, which may expose us to liability and increase our costs.***

Our activities must be conducted in compliance with U.S. export controls, including the U.S. Department of Commerce’s Export Administration Regulations and economic and trade sanctions regulations administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). These regulations may limit the export of our products and provision of our services outside of the United States, or may require export authorizations, including by license, a license exception, or other appropriate government authorizations, including annual or semi-annual reporting and the filing of an encryption registration. Export control and economic sanctions laws may also include prohibitions on the sale or supply of certain of our products to embargoed or sanctioned countries, regions, governments, persons, and entities. In addition, various countries regulate the importation of certain products, through import permitting and licensing requirements, and have enacted laws that could limit our ability to distribute our products. The exportation, reexportation, and importation of our products and the provision of services, including by our partners, must comply with these laws or else we may be adversely affected, through reputational harm, government investigations, penalties, and a denial or curtailment of our ability to export our products or provide services. Complying with export control and sanctions laws may be time consuming and may result in the delay or loss of sales opportunities. Although we have controls designed to prevent our services from being used in violation of such laws, we are aware of a limited number of past occasions in which persons from U.S. sanctioned countries or regions appear to have accessed our platform. We have taken measures designed to prevent such situations from reoccurring, but there can be no guarantee that such measures will be successful in every case. If we are found to be in violation of U.S. sanctions or export control laws, it could result in substantial fines and penalties for us and for individuals working for us. Changes in export or import laws, or corresponding sanctions, may delay the introduction and sale of our services in international markets, or, in some cases, prevent the export or import of our services to certain countries, regions, governments, persons, or entities altogether, which could materially adversely affect our business, financial condition, and results of operations.

We are also subject to various domestic and international anti-corruption laws, such as the FCPA and the UK Bribery Act, as well as other similar anti-bribery and anti-kickback laws and regulations. These laws and regulations generally prohibit companies and their employees and intermediaries from directly or indirectly authorizing, promising, offering, or providing payments or benefits to government officials and other recipients for improper purposes, such as to obtain or retain business improperly or secure an improper business advantage. We rely on certain third parties to support our sales and regulatory compliance efforts and can be held liable in certain cases for their corrupt or other illegal activities, even if we do not explicitly authorize such activities. The FCPA also requires that we keep accurate books and records and maintain a system of adequate internal controls. Although we take precautions to prevent violations of these laws, we cannot provide assurance that our internal controls and compliance systems will always prevent misconduct by our employees, agents, third parties, or business partners. Our exposure for violating these laws will increase as our international presence expands and as we increase sales and operations in foreign jurisdictions.

Violations of applicable anti-corruption, export controls, or economic, and trade sanctions laws could subject us to significant sanctions, including civil or criminal fines and penalties, disgorgement of profits, injunctions, and debarment from government contracts, as well as related stockholder lawsuits and other remedial measures, all of which could adversely affect our reputation, business, financial condition, and results of operations. Violations or allegations of violations could also result in whistleblower

complaints, adverse media coverage, and investigations, any of which could have a material adverse effect on our reputation, business, and results of operations.

***Our business may be affected by the evolving regulatory framework for AI Technologies.***

The regulatory framework for AI Technologies is rapidly evolving as many federal, state, and foreign government bodies and agencies have introduced or are currently considering additional laws and regulations. Additionally, existing laws and regulations may be interpreted in ways that would affect the operation of our AI Technologies. As a result, implementation standards and enforcement practices are likely to remain uncertain for the foreseeable future, and we cannot yet determine the impact future laws, regulations, standards, or market perception of their requirements may have on our business and may not always be able to anticipate how to respond to these laws or regulations.

Already, certain existing legal regimes (e.g., relating to data privacy) regulate certain aspects of AI Technologies, and new laws regulating AI Technologies either entered into force in the United States and the EU in 2024 or are expected to enter into force in 2025. In the United States, the Trump administration has rescinded an executive order relating to the safe and secure development of AI Technologies that was previously implemented by the Biden administration. The Trump administration then issued a new executive order that, among other things, requires certain agencies to develop and submit to the president action plans to “sustain and enhance America’s global AI dominance” and to specifically review and, if possible, rescind rulemaking conducted pursuant to the rescinded Biden executive order. The Trump administration may continue to rescind other existing federal orders and/or administrative policies relating to AI Technologies or may implement new executive orders and/or other rule making relating to AI Technologies in the future. Accordingly, the scope and direction of orders, policies, rules and regulations related to AI Technologies at the federal level in the United States in the near future is uncertain. Any such changes at the federal level could require us to expend significant resources to modify our products, services, or operations to ensure compliance or remain competitive. U.S. legislation related to AI Technologies has also been introduced at the federal level and is advancing at the state level. For example, the California Privacy Protection Agency is currently in the process of finalizing regulations under the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act (collectively, the “CCPA”) regarding the use of automated decision-making. California also enacted seventeen new laws in 2024 that further regulate use of AI Technologies and provide consumers with additional protections around companies’ use of AI Technologies, such as requiring companies to disclose certain uses of generative AI. Other states have also passed AI-focused legislation, such as Colorado’s Artificial Intelligence Act, which will require developers and deployers of “high-risk” AI systems to implement certain safeguards against algorithmic discrimination, and Utah’s Artificial Intelligence Policy Act, which establishes disclosure requirements and accountability measures for the use of generative AI in certain consumer interactions.

In Europe, on May 21, 2024, the European Union legislators approved the EU Artificial Intelligence Act (the “EU AI Act”), which establishes a comprehensive, risk-based governance framework for AI in the EU market. The EU AI Act is expected to enter into force on August 1, 2024, and the majority of the substantive requirements will apply two years later. The EU AI Act will apply to companies that develop, use and/or provide AI in the EU and includes requirements around transparency, conformity assessments and monitoring, risk assessments, human oversight, security, accuracy, general purpose AI and foundation models, and proposes fines for breach of up to 7% of worldwide annual turnover. In addition, on September 28, 2022, the European Commission proposed two Directives seeking to establish a harmonized civil liability regime for AI in the EU, in order to facilitate civil claims in respect of harm caused by AI and to include AI-enabled products within the scope of the EU’s existing strict product liability regime. Once fully applicable, the EU AI Act and the Liability Directives will have a material impact on the way AI is regulated in the EU. Further, in Europe we are subject to the GDPR, which regulates our use of personal data for automated decision making that results in a legal or similarly significant effect on an individual, and provides rights to individuals in respect of that automated decision making. Recent case law from the Court of Justice of the European Union (“CJEU”) has taken an expansive view of the scope of the GDPR’s requirements around automated decision making and introduced uncertainty in the interpretation of these rules. Specifically, the CJEU has expanded the scope for automated decision making under the GDPR by finding that automated decision making activities can fall within the GDPR’s restrictions on those activities even if the required legal or similarly significant effect for the individual is carried out by a third party. The EU AI Act, and developing interpretation and application of the GDPR in respect of automated decision making, together with developing guidance and/or decisions in this area, may affect our use of AI Technologies and our ability to provide, improve or commercialize our services, require additional compliance measures and changes to our operations and processes, result in increased compliance costs and potential increases in civil claims against us, and could adversely affect our business, operations and financial condition.

It is possible that new laws and regulations will be adopted in the United States and in other non-U.S. jurisdictions, or it is possible that new laws and regulations will be adopted in the United States and in other non-U.S. jurisdictions, or that existing laws and regulations, including competition and antitrust laws, may be interpreted in ways that would limit our ability to use AI Technologies for our business, or require us to change the way we use AI Technologies in a manner that negatively affects the performance of our products, services, and business and the way in which we use AI Technologies. We may need to expend resources to adjust our products or services in certain jurisdictions if the laws, regulations, or decisions are not consistent across jurisdictions. Further, the cost to comply with such laws, regulations, or decisions and/or guidance interpreting existing laws, could be significant and would increase our operating expenses (such as by imposing additional reporting obligations regarding our use of AI

Technologies). Such an increase in operating expenses, as well as any actual or perceived failure to comply with such laws and regulations, could adversely affect our business, financial condition, and results of operations.

***Our business may be affected by sanctions, export controls, and similar measures targeting Russia and other countries and territories, as well as other responses to Russia's invasion of Ukraine.***

As a result of Russia's invasion of Ukraine, governmental authorities in the United States, the European Union, and the United Kingdom, among others, launched an expansion of coordinated sanctions and export control measures, including, for example:

- blocking sanctions on some of the largest state-owned and private Russian financial institutions (and their subsequent removal from the Society for Worldwide Interbank Financial Telecommunication payment system);
- blocking sanctions against Russian and Belarusian individuals, including the Russian President, other politicians, and those with government connections or involvement in Russian military activities;
- blocking sanctions against certain Russian businessmen and their businesses, some of which have significant financial and trade ties to the European Union;
- blocking of Russia's foreign currency reserves and prohibition on secondary trading in Russian sovereign debt and certain transactions with the Russian Central Bank, National Wealth Fund, and the Ministry of Finance of the Russian Federation;
- expansion of sectoral sanctions in various sectors of the Russian and Belarusian economies and the defense sector;
- U.K. sanctions introducing restrictions on providing loans to, and dealing in securities issued by, persons connected with Russia;
- restrictions on access to the financial and capital markets in the European Union, as well as prohibitions on aircraft leasing operations;
- sanctions prohibiting most commercial activities of U.S., U.K., and E.U. persons in the so-called People's Republic of Donetsk and the so-called People's Republic of Luhansk (and, with respect to the European Union, the areas of Kherson and Zaporizhzhia not controlled by the Ukrainian government), with all of these new restrictions largely tracking prior prohibitions relating to Crimea and Sevastopol;
- enhanced import and export controls and trade sanctions targeting Russia's imports of technological goods, including E.U. and U.K. prohibitions on exporting a wide range of "industrial" goods to Russia (and on importing a large number of "revenue-generating" goods from Russia). The restrictions also include bans on the export of large numbers of "luxury" items to Russia (and in some cases also to Belarus), tighter controls on exports and reexports of dual-use items, stricter licensing policy with respect to issuing export licenses, and/or increased use of "end-use" controls to block or impose licensing requirements on exports, as well as higher import tariffs;
- the closure of airspace to Russian aircraft;
- ban on imports of Russian oil, liquefied natural gas, and coal to the United States and on "new investment" in Russia's energy sector (often with similar bans being enacted in the United Kingdom and the European Union);
- ban on imports of Russian fish, seafood, and preparations thereof, alcoholic beverages, non-industrial diamonds, and gold to the United States;
- a ban on "new investment" in the Russian Federation by a U.S. person, which may be interpreted broadly (with a similar prohibition also enacted by the United Kingdom);
- bans on the provision of certain professional services, including accounting, trust and corporate formation, auditing, and management consulting services, and information technology and software services, among others; and
- bans on the provision of services related to the worldwide maritime transportation of seaborne Russian oil, if purchased above a specific price cap.

As the war in Ukraine continues, there can be no certainty regarding whether the governmental authorities in the United States, the European Union, the United Kingdom, or other countries will impose additional sanctions, export controls, or other measures targeting Russia, Belarus, or other territories. Furthermore, in retaliation against new international sanctions and as part of measures to stabilize and support the volatile Russian financial and currency markets, the Russian authorities also imposed significant currency control measures aimed at restricting the outflow of foreign currency and capital from Russia, imposed various restrictions on transacting with non-Russian parties, banned exports of various products, and imposed other economic and financial restrictions.

Our business must be conducted in compliance with applicable economic and trade sanctions laws and regulations, including those administered and enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the U.S. Department of State, the U.S. Department of Commerce, the United Nations Security Council, and other relevant governmental authorities. We must be ready to comply with the existing and any other potential additional measures imposed in connection with the war in Ukraine. The imposition of such measures could adversely impact our business, including preventing us from performing existing contracts, recognizing revenue, pursuing new business opportunities, or receiving payment for subscriptions from our existing customers.

On June 12, 2024, the U.S. Department of the Treasury's Office of Foreign Assets Control issued, pursuant to Executive Order 14071 and 31 CFR § 587.802, a determination—"Prohibition on Certain Information Technology and Software Services"—that restricts the provision of certain IT and software-related services to Russia. The determination prohibits U.S. persons, wherever located, from exporting, reexporting, selling, or supplying IT support and cloud-based services for enterprise management software and design and manufacturing software to persons located in Russia. Although it is not clear that Amplitude's software and services are captured by this determination, out of an abundance of caution, we ceased providing our software or IT support or cloud-based services to persons located in Russia on September 12, 2024, when the determination took effect. As a result, we have experienced a decrease in revenue since September 12, 2024 as well as additional bad debts due to changes in our ability to collect open receivables from customers that have had service disruptions caused by this determination.

We believe we do not currently have contracts directly with the entities or businesses on a sanctions-related list of designated persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any Member States of the European Union, or the United Kingdom, and we currently do not have facilities or employees in Russia, Belarus, the Crimea Region of Ukraine, the so-called Donetsk People's Republic, or the so-called Luhansk People's Republic. We continue to review and monitor our contractual relationships with suppliers and customers to establish whether any are implicated by applicable sanctions. However, given the range of possible outcomes, the full costs, burdens, and limitations on our and our customer's and business partners' businesses are currently unknown and may become significant. As a result, based on the extent and breadth of sanctions, export controls, and other measures that may be imposed and related effects in connection with the war in Ukraine, it is possible that our business, financial condition, and results of operations could be materially adversely affected.

***Complying with evolving privacy and other data-related laws, as well as contractual and other requirements, may be expensive and force us to make adverse changes to our business, and the failure or perceived failure to comply with such laws, contracts, and other requirements could result in adverse reputational and brand damage and significant fines and liability or otherwise materially adversely affect our business and growth prospects.***

We are subject to numerous federal, state, local, and foreign privacy and data protection laws, regulations, policies, and contractual obligations that apply to the collection, transmission, storage, processing, sharing, disclosure, security, and use of personal information or personal data which, among other things, impose certain requirements relating to the privacy and security of personal information and other data. Laws and regulations governing privacy and data protection, the use of the internet as a commercial medium, the use of data in AI and ML, and data sovereignty requirements are rapidly evolving, extensive, complex, and include inconsistencies and uncertainties and may conflict with other rules or our practices. Further, new laws, rules, and regulations could be enacted with which we are not familiar or with which our current practices do not comply.

We may incur significant expenses to comply with the laws, regulations, and other obligations that apply to us. For example, the GDPR went into effect in May 2018 and imposes stringent data protection requirements for processing the personal data of individuals within the EEA or in the context of our activities within the EEA, including certain disclosure requirements, limitations on retention of personal data, mandatory data breach notification requirements, and additional obligations. Non-compliance with the GDPR can trigger fines of up to the greater of €20 million or 4% of our global annual turnover. Among other requirements, the GDPR regulates transfers of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the United States, and the efficacy and longevity of current transfer mechanisms between the EEA and the United States remains uncertain. Case law from the CJEU states that reliance on the standard contractual clauses—a standard form of contract approved by the European Commission as an adequate personal data transfer mechanism—alone may not necessarily be sufficient in all circumstances and that transfers must be assessed on a case-by-case basis. The European Commission adopted its Adequacy Decision in relation to the new E.U.-U.S. Data Privacy Framework ("DPF") on July 10, 2023, rendering the DPF effective as a GDPR transfer mechanism to U.S. entities self-certified under the DPF. We expect the regulatory guidance and enforcement landscape to continue to develop, in relation to transfers to the United States and elsewhere. As a result, we may have to make certain operational changes and we will have to implement revised standard contractual clauses and other relevant documentation for existing data transfers within required time frames.

Since the beginning of 2021, companies have also had to comply with both the GDPR and the UK GDPR, which, together with the amended UK Data Protection Act 2018, retains the GDPR in U.K. national law. The UK GDPR mirrors the fines under the GDPR, imposing fines up to the greater of €20 million (£17.5 million) or 4% of a non-compliant undertaking's annual global revenue for the preceding financial year. On October 12, 2023, the UK Extension to the DPF came into effect (as approved by the U.K. Government), as a data transfer mechanism from the United Kingdom to U.S. entities self-certified under the DPF. As we continue to expand into other foreign countries and jurisdictions, we may be subject to additional laws and regulations that may affect how we conduct business.

In addition to the European Union and United Kingdom, a growing number of other global jurisdictions are considering, or have passed, legislation implementing data protection requirements or requiring local storage and processing of data or similar requirements that could increase the cost and complexity of delivering our platform, particularly as we expand our operations internationally. Some of these laws, such as the General Data Protection Law in Brazil, or the Act on the Protection of Personal Information in Japan, impose similar obligations as those under the GDPR. Others, such as those in Russia, India, and China, could potentially impose more stringent obligations, including data localization requirements. If we are unable to develop and offer features that meet legal requirements or help our customers meet their obligations under the laws or regulations relating to privacy, data protection, or information security, or if we violate or are perceived to violate any laws, regulations, or other obligations relating to privacy, data protection, or information security, we may experience reduced demand for our Digital Analytics Platform, harm to our reputation, and could become subject to investigations, claims, and other remedies, which would expose us to significant fines, penalties, and other damages, all of which would harm our business. Further, given the breadth and depth of changes in global data protection obligations, compliance has caused us to expend significant resources, and such expenditures are likely to continue into the future as we continue our compliance efforts and respond to new interpretations and enforcement actions.

The data protection landscape is also rapidly growing and evolving in the United States. As our operations and business grow, we may become subject to or affected by new or additional data protection laws and regulations and face increased scrutiny or attention from regulatory authorities. For example, the CCPA, requires covered businesses that process the personal information of California residents to, among other things: (i) provide certain disclosures to California residents regarding the business's collection, use, and disclosure of their personal information, (ii) receive and respond to requests from California residents to access, delete, and correct their personal information, or to opt out of certain disclosures of their personal information, and (iii) enter into specific contractual provisions with service providers that process California resident personal information on the business's behalf. Additional compliance investment and potential business process changes may be required. Similar laws have been passed in other states and are continuing to be proposed at the state and federal level, reflecting a trend toward more stringent privacy legislation in the United States. The enactment of such laws may have potentially conflicting requirements that would make compliance challenging.

Furthermore, the FTC and many state Attorneys General continue to enforce federal and state consumer protection laws against companies for online collection, use, dissemination, and security practices that appear to be unfair or deceptive. For example, according to the FTC, failing to take appropriate steps to keep consumers' personal information secure can constitute unfair acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act. The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Additionally, federal and state consumer protection laws are increasingly being applied by FTC and states' attorneys general to regulate the collection, use, storage, and disclosure of personal or personally identifiable information, through websites or otherwise, and to regulate the presentation of website content. There are also a number of legislative proposals in the United States, at both the federal and state level, and in the European Union and elsewhere, that could impose new obligations in areas such as e-commerce and other related legislation or liability for copyright infringement by third parties. We cannot yet determine the impact that these future laws, regulations, and standards may have on our business.

Although we work to comply with applicable laws, regulations, and standards, our contractual obligations, and other legal obligations, these requirements are evolving and may be modified, interpreted, and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another or other legal obligations with which we must comply. Any failure or perceived failure by us or our employees, representatives, contractors, consultants, collaborators, or other third parties to comply with such requirements or adequately address privacy and security concerns, even if unfounded, could result in additional costs and liability to us and damage to our reputation, and could adversely affect our business and results of operations. In addition, if our practices are not consistent, or viewed as not consistent, with legal and regulatory requirements, including changes in laws, regulations, and standards or new interpretations or applications of existing laws, regulations, and standards, we may also become subject to audits, inquiries, whistleblower complaints, adverse media coverage, investigations, or criminal or civil sanctions, all of which may harm our business, financial condition, and results of operations.

***Any future litigation against us could be costly and time-consuming to defend.***

We may become subject to legal proceedings and claims that arise in the ordinary course of business, such as claims brought by our customers in connection with commercial disputes or employment claims made by our current or former employees. Litigation might result in substantial costs and may divert management's attention and resources, which might materially adversely affect our business, financial condition, and results of operations. Insurance might not cover such claims, might not provide sufficient payments to cover all the costs to resolve one or more such claims, and might not continue to be available on terms acceptable to us (including premium increases or the imposition of large deductible or co-insurance requirements). A claim brought against us that is uninsured or underinsured could result in unanticipated costs, potentially having a material adverse effect on our business, financial condition, and results of operations. In addition, we cannot be sure that our existing insurance coverage and coverage for errors and omissions will continue to be available on acceptable terms or that our insurers will not deny coverage as to any future claim.

## **Risks Related to Tax and Accounting Matters**

### ***We face exposure to foreign currency exchange rate fluctuations.***

We conduct transactions, particularly intercompany transactions, in currencies other than the U.S. dollar. While we have primarily transacted with customers and vendors in U.S. dollars, we have transacted in foreign currencies for subscriptions to our Digital Analytics Platform, and we expect to significantly expand the number of transactions with customers for our Digital Analytics Platform that are denominated in foreign currencies. A portion of our operating expenses are incurred outside the United States, denominated in foreign currencies, and subject to fluctuations due to changes in foreign currency exchange rates, particularly changes in the Euro, British Pound, Canadian Dollar, Singapore Dollar, Australian Dollar, and Japanese Yen. In addition, our international subsidiaries maintain net assets denominated in currencies other than the functional operating currencies of these entities. Accordingly, changes in the value of foreign currencies relative to the U.S. dollar can affect our results of operations due to transactional and translational remeasurements. As a result of these foreign currency exchange rate fluctuations, it could be more difficult to detect underlying trends in our business and results of operations. To the extent that fluctuations in currency exchange rates cause our results of operations to differ from our expectations or the expectations of our investors, the trading price of our Class A common stock could be adversely affected. We do not currently maintain a program to hedge transactional exposures in foreign currencies. However, in the future, we may use derivative instruments, such as foreign currency forward and option contracts, to hedge certain exposures to fluctuations in foreign currency exchange rates. The use of these hedging instruments may not offset any, or more than a portion of, the adverse financial effects of unfavorable movements in foreign exchange rates over the limited time the hedges are in place, and may introduce additional risks if they are not structured effectively.

In addition, our international subsidiaries maintain net assets denominated in currencies other than the functional operating currencies of these entities. Accordingly, changes in the value of foreign currencies relative to the U.S. dollar can affect our revenue and results of operations due to transactional and translational remeasurements. As a result of these foreign currency exchange rate fluctuations, it could be more difficult to detect underlying trends in our business and results of operations. To the extent that fluctuations in currency exchange rates cause our results of operations to differ from our expectations or the expectations of our investors, the trading price of our Class A common stock could be adversely affected.

### ***Our global operations and structure subject us to potentially adverse tax consequences.***

We generally conduct our global operations through subsidiaries and report our taxable income in various jurisdictions worldwide based upon our business operations in those jurisdictions. A change in our global operations could result in higher effective tax rates, reduced cash flows, and lower overall profitability. In particular, our intercompany relationships are subject to complex transfer pricing regulations administered by taxing authorities in various jurisdictions. The relevant revenue and taxing authorities may disagree with positions we have taken generally, or our determinations as to the value of assets sold or acquired or income and expenses attributable to specific jurisdictions. If such a disagreement were to occur, and our position was not sustained, we could be required to pay additional taxes, interest, and penalties, which could result in one-time tax charges, higher effective tax rates, reduced cash flows, and lower overall profitability of our operations.

In addition, over the past several years, the Organisation for Economic Co-operation and Development (the "OECD") has been working on a base erosion and profit shifting ("BEPS") project that seeks to establish certain international standards for taxing the worldwide income of multinational companies. As part of the OECD's BEPS project, over 130 member jurisdictions of the OECD Inclusive Framework have joined the Two-Pillar Solution to Address the Tax Challenges of the Digitalisation of the Economy, which includes a reallocation of taxing rights among jurisdictions and a global minimum tax rate of 15%. As a result of these developments, the tax laws of certain countries in which we do business could change on a prospective or retroactive basis, and any such changes could increase our liabilities for taxes, interest, and penalties, and therefore could materially adversely affect our cash flows, financial condition, and results of operations.

***Our ability to use our net operating loss carryforwards may be limited.***

Under Section 382 of the Internal Revenue Code of 1986, as amended (the “Code”), and corresponding provisions of state law, if a corporation undergoes an “ownership change,” which is generally defined as a greater than 50 percentage point change (by value) in its equity ownership by certain stockholders over a three-year period, the corporation’s ability to use its pre-change net operating loss carryforwards (“NOLs”) to offset its post-change income or taxes may be limited. We have completed a Section 382 study through December 31, 2024 and have determined that none of our NOLs generated through December 31, 2024 will expire solely due to Section 382 limitations caused by ownership changes prior to December 31, 2024. However, we may have experienced ownership changes after December 31, 2024, and may experience ownership changes as a result of subsequent shifts in our stock ownership, some of which may be outside of our control. Such a change or changes could limit the amount of NOLs that we can utilize annually to offset future taxable income. Other limitations, such as those under the Tax Cuts and Jobs Act, as modified by the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), which limit the deductibility of federal NOLs in taxable years beginning after December 31, 2020, to 80% of taxable income, and subsequent changes to the U.S. tax rules in respect of the utilization of NOLs may further affect our ability to use our NOLs in future years. In addition, at the state level, there may be periods during which the use of NOLs is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

***Changes in our effective tax rate or tax liability may have a material adverse effect on our results of operations.***

We are subject to income taxes in the United States and various foreign jurisdictions. The determination of our worldwide provision for income taxes and other tax liabilities requires significant judgment by management, and there are many transactions where the ultimate tax determination is uncertain. We believe that our provision for income taxes is reasonable, but the ultimate tax outcome may differ from the amounts recorded in our condensed consolidated financial statements and may materially affect our financial results in the period or periods in which such outcome is determined.

Our effective tax rate could increase due to several factors, including:

- changes in the relative amounts of income before taxes in the various jurisdictions in which we operate that have differing statutory tax rates;
- changes in tax laws, tax treaties, and regulations or the interpretation of them, such as the Tax Cuts and Jobs Act, the CARES Act, and the Inflation Reduction Act;
- changes to our assessment about our ability to realize our deferred tax assets that are based on estimates of our future results, the prudence and feasibility of possible tax planning strategies, and the economic and political environments in which we do business;
- the outcome of current and future tax audits, examinations, or administrative appeals; and
- the effects of acquisitions.

Any of these developments could materially adversely affect our results of operations.

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

***We could be required to collect additional sales or indirect taxes or be subject to other tax liabilities that may increase the costs our customers would have to pay for our products and materially adversely affect our results of operations.***

We currently collect and remit applicable sales and indirect taxes and other applicable transfer taxes in jurisdictions where we, through our employees or economic activity, have a presence and where we have determined, based on applicable legal precedents, that sales or licensing of our products are classified as taxable. We do not currently collect and remit state and local excise, utility user and ad valorem taxes, fees, or surcharges in jurisdictions where we believe we do not have sufficient “nexus.” There is uncertainty as to what constitutes sufficient nexus for a state or local jurisdiction to levy taxes, fees, and surcharges for sales made over the internet, and there is also uncertainty as to whether our characterization of our products as not taxable in certain jurisdictions will be accepted by state and local tax authorities.

An increasing number of states have considered or adopted laws that attempt to impose tax collection obligations on out-of-state companies. Additionally, the Supreme Court of the United States ruled in *South Dakota v. Wayfair, Inc. et al.* (“*Wayfair*”), that online sellers can be required to collect sales and use tax despite not having a physical presence in the buyer’s state. In response to *Wayfair*, or otherwise, states or local governments may adopt, or begin to enforce, laws requiring us to calculate, collect, and remit taxes on

sales in their jurisdictions. A successful assertion by one or more states requiring us to collect taxes where we presently do not do so, or to collect more taxes in a jurisdiction in which we currently do collect some taxes, could result in substantial tax liabilities, including taxes on past sales, as well as penalties and interest. The imposition by state governments or local governments of sales tax collection obligations on out-of-state sellers could also create additional administrative burdens for us, put us at a competitive disadvantage if they do not impose similar obligations on our competitors, and decrease our future sales, which could have a material adverse effect on our business and results of operations.

***Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the United States.***

U.S. generally accepted accounting principles (“U.S. GAAP”) are subject to interpretation by the Financial Accounting Standards Board, the Securities and Exchange Commission (the “SEC”), and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported results of operations and could affect the reporting of transactions already completed before the announcement of a change.

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

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in our condensed consolidated financial statements and accompanying notes appearing elsewhere in this Quarterly Report on Form 10-Q. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, as provided in the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates” within our Annual Report on Form 10-K, filed with the SEC on February 20, 2025, and within this Quarterly Report on Form 10-Q. The results of these estimates form the basis for making judgments about the carrying values of assets, liabilities, and equity, and the amount of revenue and expenses that are not readily apparent from other sources. Significant estimates and judgments involve those related to revenue recognition, deferred commissions, valuation of our stock-based compensation awards, including the determination of the fair value of our common stock, valuation of goodwill and intangible assets, accounting for income taxes, and useful lives of long-lived assets, among others. Our results of operations may be materially adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our results of operations to fall below the expectations of securities analysts and investors, resulting in a decline in the trading price of our Class A common stock.

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

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

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

*The trading price of our Class A common stock has been, and in the future, may be, volatile, and could decline significantly and rapidly.*

The trading price of our Class A common stock has fluctuated and may in the future fluctuate substantially in response to numerous factors in addition to the ones described in the preceding risk factors, many of which are beyond our control, including:

- actual or anticipated fluctuations in our financial condition, results of operations, or operating metrics and those of our competitors;
- changes in our projected operating and financial results or our failure to meet these projections;
- failure of securities analysts to initiate or maintain coverage of us, changes in financial estimates by any securities analysts who follow our company, or variance in our financial performance from expectations of securities analysts;
- changes in the pricing of our Digital Analytics Platform;
- changes in the anticipated future size or growth rate of our addressable markets;
- changes in laws or regulations applicable to our Digital Analytics Platform;
- announcements by us or our competitors of significant business developments, acquisitions, or new offerings;
- significant data breaches, disruptions to, or other incidents involving, our platform;
- our involvement in litigation;
- changes in our board of directors, senior management, or key personnel;
- the number of shares of our Class A common stock made available for trading;
- future sales of our Class A common stock by us or our stockholders;
- the trading volume of our Class A common stock;
- changes in the anticipated future size and growth rate of our market;
- general economic, market, and industry conditions, including economic slowdowns, recessions, inflationary pressures, rising interest rates, tariffs, trade wars, financial market fluctuations, and reduced credit availability;
- other events or factors, including those resulting from war or armed conflicts (including those in Ukraine and the Middle East), incidents of terrorism, pandemics, elections, or responses to these events; and
- whether investors or securities analysts view our stock structure unfavorably, particularly our dual class structure and the concentrated voting control of our executive officers, directors, and their affiliates.

In addition, stock markets with respect to newly public companies, particularly companies in the technology industry, have experienced significant price and volume fluctuations that have affected and continue to affect, the stock prices of these companies. Stock prices of many companies, including technology companies, have fluctuated in a manner often unrelated to the operating performance of those companies. In the past, companies that have experienced volatility in the trading price of their securities have been subject to securities class action litigation. In February 2024, a purported securities class action complaint was filed against us and certain of our current and former officers in U.S. federal court, and we may be the target of this type of litigation in the future. Our involvement in these types of litigation or other securities litigation could result in substantial expenses, divert resources and our management's attention, and harm our business, results of operations and financial condition.

*Our principal stockholders have the ability to influence the outcome of director elections and other matters requiring stockholder approval.*

As of the date of this Quarterly Report on Form 10-Q, our directors, executive officers, and holders of more than 5% of our capital stock and their affiliates collectively beneficially own, in the aggregate, shares representing a substantial majority of the combined voting power of our outstanding Class A and Class B common stock. These stockholders currently have, and likely will continue to have, considerable influence with respect to the election of our board of directors and approval or disapproval of all significant corporate actions. The concentrated voting power of these stockholders could have the effect of delaying or preventing a significant corporate transaction, such as a merger or other sale of our company or our assets. This concentration of ownership limits

the ability of other stockholders to influence corporate matters and may cause us to make strategic decisions that could be adverse to the interests of other stockholders.

***The dual class structure of our common stock has the effect of concentrating voting control with our existing stockholders, executive officers, and directors and their affiliates, which limits your ability to influence the outcome of important transactions and to influence corporate governance matters, such as electing directors, and to approve material mergers, acquisitions, or other business combination transactions that may not be aligned with your interests.***

Our Class B common stock has five votes per share, whereas our Class A common stock, which is listed on the Nasdaq Capital Market, has one vote per share. Because of the five-to-one voting ratio between our Class B common stock and our Class A common stock, the holders of our Class B common stock are able to exercise considerable influence over matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, such as a merger or other sale of our company or our assets, even if their stock holdings represent less than 50% of the outstanding shares of our capital stock, until the date that is six months following the date on which no founder is an employee or director of our company (unless a founder has rejoined our company during such six-month period), when all outstanding shares of Class A common stock and Class B common stock will convert automatically into shares of a single class of common stock. This concentration of ownership limits the ability of other stockholders to influence corporate matters and may cause us to make strategic decisions that could involve risks to you or that may not be aligned with your interests. This control may adversely affect the trading price of our Class A common stock.

Further, future transfers by holders of our Class B common stock will generally result in those shares converting into shares of our Class A common stock, subject to limited exceptions, such as certain transfers effected for tax- or estate-planning purposes. The conversion of shares of our Class B common stock into shares of our Class A common stock will have the effect, over time, of increasing the relative voting power of those holders of Class B common stock who retain their shares in the long term. As a result, it is possible that one or more of the persons or entities holding our Class B common stock could gain significant voting control as other holders of Class B common stock sell or otherwise convert their shares into Class A common stock.

In addition, while we do not expect to issue any additional shares of Class B common stock, any future issuances of Class B common stock would be dilutive to holders of Class A common stock.

***We cannot predict the impact our dual class structure may have on the trading price of our Class A common stock.***

We cannot predict whether our dual class structure, combined with the concentrated control of our stockholders who held our capital stock prior to the listing of our Class A common stock on the Nasdaq Capital Market, including our executive officers, employees, and directors and their affiliates, will result in a lower or more volatile trading price of our Class A common stock or in adverse publicity or other adverse consequences. For example, certain index providers, such as FTSE Russell, exclude or limit the eligibility of public companies with multiple classes of shares of common stock for certain indices. Given the sustained flow of investment funds into passive strategies that seek to track certain indexes, exclusion from stock indexes would likely preclude investment by many of these funds and could make our Class A common stock less attractive to other investors. As a result, the trading price of our Class A common stock could be adversely affected.

***None of our stockholders are party to any contractual lock-up agreement or other contractual restrictions on transfer. Sales of substantial amounts of our Class A common stock in the public markets, or the perception that sales might occur, could cause the trading price of our Class A common stock to decline.***

In addition to the supply and demand and volatility factors discussed above, sales of a substantial number of shares of our Class A common stock into the public market, particularly sales by our directors, executive officers, and principal stockholders, or the perception that these sales might occur in large quantities, could cause the trading price of our Class A common stock to decline.

None of our securityholders are subject to any contractual lock-up or other contractual restriction on the transfer or sale of their shares.

Moreover, assuming the availability of certain public information about us, (i) non-affiliates who have beneficially owned our common stock for at least six months may rely on Rule 144 to sell their shares of common stock, and (ii) our directors, executive officers, and other affiliates who have beneficially owned our common stock for at least six months will be entitled to sell their shares of our Class A common stock subject to volume and other limitations under Rule 144 and various vesting agreements.

In addition, we have filed registration statements to register all shares subject to options and restricted stock units (“RSU”) outstanding or reserved for future issuance under our equity compensation plans. As of March 31, 2025, we had options outstanding

that, if fully exercised, would result in the issuance of 10,955,172 shares of Class A common stock, as well as 12,526,884 shares of Class A common stock subject to RSUs.

Accordingly, these shares will be able to be freely sold in the public market upon issuance, subject to applicable vesting requirements and compliance by affiliates with Rule 144.

Further, certain of the holders of our common stock have rights, subject to some conditions, to require us to file registration statements for the public resale of the Class A common stock issuable upon the conversion of shares of our Class B common stock into shares of our Class A common stock or to include such shares in registration statements that we may file for us or other stockholders. Any registration statement we file to register additional shares, whether as a result of registration rights or otherwise, could cause the trading price of our Class A common stock to decline or be volatile.

***Our issuance of additional capital stock in connection with financings, acquisitions, investments, our equity incentive plans, or otherwise will dilute all other stockholders.***

We expect to issue additional capital stock in the future that will result in dilution to all other stockholders. We expect to grant equity awards to employees, directors, and consultants under our equity incentive plans and issue shares of our Class A common stock under our employee stock purchase plan. We may also raise capital through equity financings in the future. As part of our business strategy, we may acquire or make investments in companies, products, or technologies and issue equity securities to pay for any such acquisition or investment. Any such issuances of additional capital stock may cause stockholders to experience significant dilution of their ownership interests and the per share value of our Class A common stock to decline.

***We do not intend to pay dividends for the foreseeable future and, as a result, your ability to achieve a return on your investment will depend on appreciation in the trading price of our Class A common stock.***

We have never declared or paid any cash dividends on our capital stock, and we do not intend to pay any cash dividends in the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, you may need to rely on sales of our Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on your investment.

***Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of our company more difficult, limit attempts by our stockholders to replace or remove our current management, and limit the trading price of our Class A common stock.***

Provisions in our restated certificate of incorporation and amended and restated bylaws may have the effect of delaying or preventing a change of control or changes in our management. Our restated certificate of incorporation and amended and restated bylaws include provisions that:

- authorize our board of directors to issue, without further action by the stockholders, shares of undesignated preferred stock with terms, rights, and preferences determined by our board of directors that may be senior to our Class A common stock;
- require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by our board of directors;
- establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors;
- establish that our board of directors is divided into three classes, with each class serving three-year staggered terms;
- prohibit cumulative voting in the election of directors;
- provide that our directors may only be removed for cause;
- provide that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum; and
- require the approval of our board of directors or the holders of at least 66 2/3% of our outstanding shares of voting stock to amend our bylaws and certain provisions of our certificate of incorporation.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the

members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally, subject to certain exceptions, prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any “interested” stockholder for a period of three years following the date on which the stockholder became an “interested” stockholder. Any of the foregoing provisions could limit the price that investors might be willing to pay in the future for shares of our Class A common stock, and they could deter potential acquirers of our company, thereby reducing the likelihood that you would receive a premium for your shares of our Class A common stock in an acquisition.

***Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.***

Our restated certificate of incorporation and amended and restated bylaws provide that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law.

In addition, as permitted by Section 145 of the Delaware General Corporation Law, our amended and restated bylaws and indemnification agreements that we have entered into with our directors and officers provide that:

- we will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person 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 proceeding, had no reasonable cause to believe such person’s conduct was unlawful;
- we may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law;
- we are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification;
- the rights conferred in our amended and restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees, and agents and to obtain insurance to indemnify such persons; and
- we may not retroactively amend our amended and restated bylaws to reduce our indemnification obligations to directors, officers, employees, and agents.

While we have procured directors’ and officers’ liability insurance policies, such insurance policies may not be available to us in the future at a reasonable rate, may not cover all potential claims for indemnification, and may not be adequate to indemnify us for all liability that may be imposed.

***Our restated certificate of incorporation and amended and restated bylaws provide for an exclusive forum in the Court of Chancery of the State of Delaware for certain disputes between us and our stockholders, and that the federal district courts of the United States will be the exclusive forum for the resolution of any complaint asserting a cause of action under the Securities Act.***

Our restated certificate of incorporation and our amended and restated bylaws provide that: (i) unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware) will, to the fullest extent permitted by law, be the sole and exclusive forum for: (A) any derivative action or proceeding brought on our behalf, (B) any action asserting a claim for or based on a breach of a fiduciary duty owed by any of our current or former directors, officers, other employees, agents, or stockholders to us or our stockholders, including, without limitation, a claim alleging the aiding and abetting of such a breach of fiduciary duty, (C) any action asserting a claim against us or any of our current or former directors, officers, other employees, agents, or stockholders arising pursuant to any provision of the Delaware General Corporation Law or our restated certificate of incorporation or amended and restated bylaws or as to which the Delaware General Corporation Law confers jurisdiction on the Court of Chancery of the State of Delaware, or (D) any action asserting a claim related to or involving us that is governed by the internal affairs doctrine; (ii) unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act and the rules and regulations promulgated thereunder; (iii) the exclusive forum provisions are intended to benefit and may be enforced by us, our officers and directors, the financial advisors to any offering giving rise to such complaint, and any other professional or entity whose profession gives authority to a statement made by that person or entity and who has prepared or certified any part of the documents underlying the offering; and (iv) any person or entity purchasing or otherwise acquiring or holding any interest in our shares of capital stock will be deemed to have notice of and consented to these provisions. Nothing in our restated certificate of incorporation or amended and restated bylaws precludes stockholders that assert claims under the Exchange Act from bringing such claims in federal court, to the extent that the Exchange Act confers exclusive federal jurisdiction over such claims, subject to applicable law.

We believe these provisions may benefit us by providing increased consistency in the application of Delaware law and federal securities laws by chancellors and judges, as applicable, particularly experienced in resolving corporate disputes, efficient administration of cases on a more expedited schedule relative to other forums, and protection against the burdens of multi-forum litigation. If a court were to find the choice of forum provision contained in our restated certificate of incorporation or our amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could materially adversely affect our business, financial condition, and results of operations.

#### **General Risk Factors**

***Our inability to attract and retain highly skilled employees could materially adversely affect our business.***

In order to execute our growth plan, we must attract and retain highly qualified personnel. Competition for these personnel in the San Francisco Bay Area, where our headquarters is located, and in other locations where we engage in recruiting, is intense, especially for engineers experienced in designing and developing software and for experienced sales professionals. We have, from time to time experienced, and we may in the future experience, difficulty in hiring and retaining employees with appropriate qualifications. The cost of living is high in the San Francisco Bay Area, which may make it harder for us to attract and retain highly skilled employees. Many of the companies with which we compete for experienced personnel may have greater resources than we do. If we hire employees from competitors or other companies, their former employers may attempt to assert that these employees or we have breached their legal obligations, resulting in a diversion of our time and resources. In addition, job candidates and existing employees often consider the value of the equity awards they receive in connection with their employment. If the perceived value of our equity awards declines, it may adversely affect our ability to recruit and retain highly skilled employees.

As our company grows and evolves, we may need to implement more complex organizational management structures, adapt our corporate culture and work environments, streamline our organization, or adjust the size and structure of our workforce to scale for the future and execute our long-term growth plan. These changes could have an adverse impact on our corporate culture and employee morale, which could, in turn, adversely affect our reputation as an employer and harm our ability to retain and recruit personnel. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business and growth prospects could be materially adversely affected.

***We depend on our executive officers and other key employees, and the loss of one or more of these employees could materially adversely affect our business.***

Our success depends largely upon the continued services of our executive officers and other key employees. We rely on our leadership team in the areas of research and development, operations, security, marketing, sales, support, and general and administrative functions, and on individual contributors in our research and development and operations. From time to time, there may

be changes in our executive management team resulting from the hiring or departure of executives. Our inability to successfully manage executive transitions, including the uncertainty associated with any transition and the time and management attention needed to fill any vacant role, could disrupt our business, affect our culture, harm our ability to retain personnel, and adversely affect our financial condition and results of operations. We do not have employment agreements with our executive officers or other key personnel that require them to continue to work for us for any specified period; therefore, they could terminate their employment with us at any time. The loss of one or more of our executive officers, especially our Chief Executive Officer, or key employees could have an adverse effect on our business.

***Changes in the business, regulatory, or political climate in the San Francisco Bay Area could adversely affect our operations.***

Changes in the business, regulatory, or political climate in the San Francisco Bay Area, where our headquarters is located and most of our employees live, could affect our ability to expand or continue our operations there, which could have a material adverse impact on our business, financial condition, and results of operations. For example, if we were required to move our headquarters or downsize our operations in the San Francisco Bay Area due to material adverse changes in the business, regulatory, or political climate, such as increases in local tax rates, we may lose key employees and incur significant costs of relocation.

***Changes in laws and regulations related to the internet or changes in the internet infrastructure itself may diminish the demand for our Digital Analytics Platform, and could harm our business.***

The future success of our business depends upon our customers' and potential customers' access to the internet. Federal, state, or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws or regulations affecting the use of the internet. Changes in these laws or regulations could require us to modify our platform in order to comply with these changes. In addition, government agencies or private organizations may impose additional laws, regulations, standards, or protocols involving taxation, tariffs, privacy, data protection, information security, content, copyrights, distribution, electronic contracts and other communications, consumer protection, and the characteristics and quality of services, any of which could decrease the demand for our Digital Analytics Platform or result in reductions in the demand for internet-based platforms such as ours. In addition, the use of the internet as a business tool could be harmed due to delays in the development or adoption of new standards and protocols to handle increased demands of internet activity, security, reliability, cost, ease-of-use, accessibility, and quality of service. The performance of the internet and its acceptance as a business tool has been harmed by "viruses," "worms," and similar malicious programs, and the internet has experienced a variety of outages and other delays as a result of damage to portions of its infrastructure. If the use of the internet is adversely affected by these issues, demand for our Digital Analytics Platform could decline.

***Our estimates of market opportunity and forecasts of market growth may prove to be inaccurate, and even if the market in which we compete achieves the forecasted growth, our business could fail to grow at similar rates, if at all.***

Market opportunity estimates and growth forecasts, including those we have generated ourselves, are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. The variables that go into the calculation of our market opportunity are subject to change over time, and there is no guarantee that any particular number or percentage of companies covered by our market opportunity estimates will purchase our Digital Analytics Platform or generate any particular level of revenue for us. Any expansion in our markets depends on a number of factors, including the cost, performance, and perceived value associated with our Digital Analytics Platform and the products of our competitors. Even if the markets in which we compete achieve the forecasted growth, our business could fail to grow at similar rates, if at all.

***Acquisitions, mergers, strategic investments, partnerships, or alliances could be difficult to identify, pose integration challenges, divert the attention of management, disrupt our business, dilute stockholder value, and materially adversely affect our business, financial condition, and results of operations.***

We have in the past sought, and intend in the future to seek, to acquire or invest in businesses, joint ventures, and platform technologies that we believe could complement or expand our Digital Analytics Platform, enhance our technology, or otherwise offer growth opportunities. Any such acquisitions or investments may divert the attention of management and cause us to incur various expenses in identifying, investigating, and pursuing suitable opportunities, whether or not the transactions are completed, and may result in unforeseen operating difficulties and expenditures. In particular, we may encounter difficulties assimilating or integrating the businesses, technologies, products, personnel, or operations of any acquired companies, particularly if the key personnel of an acquired company choose not to work for us, the acquired company's software is not easily adapted to work with our platform, or we have difficulty retaining the customers of any acquired business due to changes in ownership, management, or otherwise. Any such transactions that we are able to complete may not result in the synergies or other benefits we expect to achieve, which could result in substantial impairment charges. These transactions could also result in dilutive issuances of equity securities, the incurrence of debt, or adverse tax consequences, which could materially adversely affect our business, financial condition, and results of operations.

***Our business could be disrupted by catastrophic occurrences and similar events.***

Natural disasters or other catastrophic events may cause damage or disruption to our operations, international commerce, and the global economy, and could harm our business. The majority of our employees are located in the San Francisco Bay Area. In the event of a major earthquake, fire, power loss, telecommunications failure, cyberattack, war or armed conflict (including the war in Ukraine and conflicts in the Middle East), terrorist attack, sabotage, other intentional acts of vandalism or misconduct, geopolitical event, disease, or other catastrophic occurrence, we may be unable to continue our operations and may endure system interruptions, reputational harm, delays in our application development, lengthy interruptions in our products, breaches of data security, and loss of critical data, all of which could materially adversely affect our business, financial condition, and results of operations.

Additionally, we rely on our network and third-party infrastructure and applications, technology systems, and our websites for our development, marketing, operational support, hosted services, and sales activities. If these systems were to fail or be negatively impacted as a result of a natural disaster or other catastrophic event, our ability to deliver products to our customers would be impaired.

As we grow our business, the need for business continuity planning, incident response planning, and disaster recovery plans will grow in significance. If we are unable to develop adequate plans to ensure that our business functions continue to operate during and after a disaster, and successfully execute on those plans in the event of a disaster or emergency, our business and reputation would be harmed.

***If securities or industry analysts do not publish research or publish unfavorable or inaccurate research about our business, the trading price and trading volume of our Class A common stock could decline.***

The trading price and trading volume of our Class A common stock will be heavily influenced by the way analysts interpret our financial information and other disclosures. We do not have control over these analysts. If few securities analysts commence coverage of us, or if industry analysts cease coverage of us, the trading price of our Class A common stock would be negatively affected. If securities or industry analysts do not publish research or reports about our business, downgrade our Class A common stock, or publish negative reports about our business, the trading price of our Class A common stock would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our Class A common stock could decrease, which could decrease the trading volume of our Class A common stock and might cause the trading price of our Class A common stock to decline.

***We incur significant costs as a result of operating as a public company, and our management needs to devote substantial time to compliance with our public company responsibilities and corporate governance practices.***

As a public company, we incur significant legal, accounting, and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, Nasdaq rules, and other applicable securities rules and regulations impose various requirements on public companies. Our management and other personnel need to devote a substantial amount of time to compliance with these requirements. Moreover, these rules and regulations increase our legal and financial compliance costs and make some activities more time-consuming and costly. We cannot predict or estimate the amount of additional costs we will continue to incur as a public company or the specific timing of such costs.

***As a public company, we are obligated to develop and maintain proper and effective internal control over financial reporting, and any failure to maintain the adequacy of these internal controls may adversely affect investor confidence in our company and, as a result, the trading price of our Class A common stock could decline.***

We are required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting on an annual basis. This assessment must include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. In addition, our independent registered public accounting firm is required to attest to the effectiveness of our internal control over financial reporting. Our compliance with Section 404 requires that we incur substantial expenses and expend significant management efforts. Such expenses and efforts have been directed to employing additional accounting and financial personnel with appropriate public company experience and technical accounting knowledge, and compiling the system and process documentation necessary to establish the compliance and controls function to comply with Section 404 of the Sarbanes-Oxley Act.

During the evaluation and testing process of our internal controls, if we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to certify that our internal control over financial reporting is effective. We cannot assure you that there will not be material weaknesses or significant deficiencies in our internal control over financial reporting in the future. Any failure to maintain internal control over financial reporting could severely inhibit our ability to accurately report our financial condition or results of operations. If we are unable to conclude that our internal control over financial reporting is effective, or if our independent registered public accounting firm determines we have a material weakness or significant deficiency in our

internal control over financial reporting, we could lose investor confidence in the accuracy and completeness of our financial reports, the trading price of our Class A common stock could decline, and we could be subject to sanctions or investigations by the SEC or other regulatory authorities. Failure to remedy any material weakness in our internal control over financial reporting, or to implement or maintain other effective control systems required of public companies, could also restrict our future access to the capital markets.

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

Not Applicable.

**Item 3. Defaults Upon Senior Securities.**

None.

**Item 4. Mine Safety Disclosures.**

Not Applicable.

**Item 5. Other Information.**

***Trading Arrangements of Section 16 Reporting Persons***

On March 12, 2025, Erica Schultz, a member of our board of directors, adopted a Rule 10b5-1 trading arrangement that is intended to satisfy the affirmative defense of Rule 10b5-1(c) for the sale of up to 81,394 shares of our Class A common stock until June 11, 2026.

**Item 6. Exhibits.**

Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
3.1	<a href="#">Restated Certificate of Incorporation of the Registrant.</a>	8-K	001-40817	3.1	6/12/2024	
3.2	<a href="#">Amended and Restated Bylaws of the Registrant.</a>	8-K	001-40817	3.2	9/21/2021	
4.1	<a href="#">Specimen Stock Certificate evidencing the shares of Class A Common Stock.</a>	S-1	333-259168	4.2	8/30/2021	
4.2	<a href="#">Specimen Stock Certificate evidencing the shares of Class B Common Stock.</a>	S-8	333-259698	4.4	9/21/2021	
4.3	<a href="#">Amended and Restated Investors' Rights Agreement, dated as of May 28, 2021, as amended, by and among the Registrant and certain of its stockholders.</a>	S-1	333-259168	4.3	8/30/2021	
10.1	<a href="#">Office Lease, dated as of March 21, 2025, by and between the Registrant and KR 201 Third Street Owner, LLC.</a>					X
31.1	<a href="#">Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>					X
31.2	<a href="#">Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>					X
32.1*	<a href="#">Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>					X
32.2*	<a href="#">Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>					X
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document.					X
101.SCH	Inline XBRL Taxonomy Extension Schema With Embedded Linkbase Documents					X
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)					X

\* The certifications attached as Exhibit 32.1 and Exhibit 32.2 that accompany this Quarterly Report on Form 10-Q are deemed furnished and not filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of Amplitude, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

**SIGNATURES**

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

**Amplitude, Inc.**

Date: May 7, 2025

By: /s/ Spenser Skates  
Spenser Skates  
Chief Executive Officer  
*(Principal Executive Officer)*

Date: May 7, 2025

By: /s/ Andrew Casey  
Andrew Casey  
Chief Financial Officer  
*(Principal Financial and Accounting Officer)*

**201 THIRD STREET**

**OFFICE LEASE**

This Office Lease (the “Lease”), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the “Summary”), below, is made by and between KR 201 THIRD STREET OWNER, LLC, a Delaware limited liability company (“Landlord”), and AMPLITUDE, INC., a Delaware corporation (“Tenant”).

**SUMMARY OF BASIC LEASE INFORMATION**

**TERMS OF LEASE**

**DESCRIPTION**

- 1. Date: March 21, 2025.
- 2. Premises: (Article 1)
  - 2.1 Building: That certain twelve (12) story office building (the “Building”) located at 201 Third Street, San Francisco, California 94103, containing 353,264 rentable square feet of space. The rentable square footage of the Building is subject to Section 1.3, below.
  - 2.2 Premises: Approximately 57,530 rentable square feet of space, comprised of (i) approximately 28,032 rentable square feet consisting of the entire second (2<sup>nd</sup>) floor of the Building and commonly known as Suite 200; and (ii) approximately 29,498 rentable square feet comprising the entire third (3<sup>rd</sup>) floor of the Building and commonly known as Suite 300, as further depicted on Exhibit A to the Office Lease. The rentable square footage of the Premises is subject to Section 1.3, below.
  - 2.3 Project: The Building is the principal component of an office project known as “201 Third Street,” as further set forth in Section 1.1.2 of this Lease.
- 3. Lease Term (Article 2):
  - 3.1 Length of Term: Approximately three (3) years and five (5) months.
  - 3.2 Lease Commencement Date: Subject to Section 2.3 below, the Lease Commencement Date will occur on the earlier to occur of (i) October 1, 2025, or (ii) the date following the termination of the “Existing Sublease” (as defined in Section 2.3 below); provided, however, in no event shall the Lease Commencement Date occur prior to the expiration or earlier termination of the “Master Lease” (as defined in Section 2.3 below).
  - 3.3 Lease Expiration Date: February 28, 2029.
  - 3.4 Option Term: One (1) three (3)-year option to renew, as more particularly set forth in Section 2.2 of this Lease.

4. Base Rent  
(Article 3):

<u>Period During Lease Term</u>	<u>Annual Base Rent*</u>	<u>Monthly Installment of Base Rent*</u>	<u>Annual Rental Rate per Rentable Square Foot*</u>
Lease Commencement Date – September 30, 2026	\$2,703,910.00	\$225,325.83	\$47.00
October 1, 2026 – September 30, 2027	\$2,785,027.30	\$232,085.61	\$48.41**
October 1, 2027 – September 30, 2028	\$2,868,578.12	\$239,048.18	\$49.86**
October 1, 2028 – Lease Expiration Date	\$2,954,635.46	\$246,219.62	\$51.36**

\* The initial Annual Base Rent amount was calculated by multiplying the initial Annual Rental Rate per Rentable Square Foot amount by the number of rentable square feet of space in the Premises, and the initial Monthly Installment of Base Rent amount was calculated by dividing the initial Annual Base Rent amount by twelve (12). Both Tenant and Landlord acknowledge and agree that multiplying the Monthly Installment of Base Rent amount by twelve (12) does not always equal the Annual Base Rent amount. In all subsequent Base Rent payment periods during the Lease Term commencing on the first (1<sup>st</sup>) day of the full calendar month that is Lease Month 13, the calculation of each Annual Base Rent amount reflects an annual increase of three percent (3%) and each Monthly Installment of Base Rent amount was calculated by dividing the corresponding Annual Base Rent amount by twelve (12).

◇ Subject to the terms set forth in Section 3.2 below, the Base Rent attributable to the Base Rent Abatement Period (as defined in Section 3.2 below) shall be abated.

\*\* The amounts identified in the column entitled “Annual Rental Rate per Rentable Square Foot” are rounded amounts and are provided for informational purposes only.

5. Base Year  
(Article 4): Calendar year 2026.

6. Tenant’s Share  
(Article 4): Approximately 16.30% during the initial Lease Term and 17.10% thereafter, subject to Section 1.3, below.

7. Permitted Use  
(Article 5): Tenant shall use the Premises solely for general office use and uses incidental thereto (the “**Permitted Use**”); provided, however, that notwithstanding anything to the contrary set forth hereinabove, and as more particularly set forth in the Lease, Tenant shall be responsible for operating and maintaining the Premises pursuant to, and in no event may Tenant’s Permitted Use violate, (A) Landlord’s “Rules and Regulations,” as that term is set forth in Section 5.2 of this Lease, (B) all “Applicable Laws,” as that term is set forth in Article 24 of this Lease, (C) all applicable zoning, building codes and the “Underlying Documents,” as that term is set forth in Section 5.3 of this Lease, and (D) first-class office standards in the market in which the Project is located.



8. L-C Amount (Article 21): \$850,000.00.
9. Parking Pass Ratio (Article 28): One (1) covered, unreserved parking pass for every full floor of the Building leased by Tenant.
10. Address of Tenant (Section 29.18):  
Amplitude, Inc.  
201 3<sup>rd</sup> Street, Suite 200  
San Francisco, CA 94103  
Attention: General Counsel  
E-mail: [legal@amplitude.com](mailto:legal@amplitude.com)
11. Address of Landlord (Section 29.18):  
KR 201 Third Street Owner, LLC  
c/o Kilroy Realty Corporation  
12200 West Olympic Boulevard, Suite 200  
Los Angeles, California 90064  
Attention: Legal Department  
Email: ###
- with copies to:
- KR 201 Third Street Owner, LLC  
Kilroy Realty Corporation  
100 First Street, Suite 250  
San Francisco, California 94105  
Attention: Mr. John Osmond  
Email: ###
- and
- KR 201 Third Street Owner, LLC  
Kilroy Realty Corporation  
100 First Street, Suite 250  
San Francisco, California 94105  
Attention: Ms. Eileen Kong  
Email: ###
- For rent payment:  
Kilroy Realty, L.P. PO Box 516542  
Los Angeles, California 90051-0595  
ABA Routing Number: ###  
Account Number: ###  
Account Name: ###  
Attention: ###
12. Broker(s) (Section 29.24):
- Representing Tenant:*  
Colliers International
- Representing Landlord:*  
Jones Lang LaSalle

## ARTICLE 1

### PREMISES, BUILDING, PROJECT, AND COMMON AREAS

#### 1.1 Premises, Building, Project and Common Areas.

1.1.1 **The Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the “**Premises**”). The outline of the Premises is set forth in Exhibit A attached hereto. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions (the “**TCCs**”) herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of such TCCs by it to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of Exhibit A is to show the approximate location of the Premises in the “**Building**,” as that term is defined in Section 1.1.2, below, only, and such Exhibit is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the “**Common Areas**,” as that term is defined in Section 1.1.3, below, or the elements thereof or of the accessways to the Premises or the “**Project**,” as that term is defined in Section 1.1.2, below. The parties acknowledge that Tenant is currently in occupancy of the Premises pursuant to the Existing Sublease and Landlord has no obligation to deliver the Premises to Tenant. Except as specifically set forth in this Lease, Tenant shall continue to accept the Premises in its existing “as-is” condition and Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant’s business.

1.1.2 **The Building and the Project.** The Premises is a part of the building set forth in Section 2.1 of the Summary (the “**Building**”). The Building is the principal component of an office project known as “**201 Third Street**.” The term “**Project**,” as used in this Lease, shall mean (i) the Building and the Common Areas, (ii) the land (which is improved with landscaping, parking structures and/or facilities and other improvements) upon which the Building and the Common Areas are located, and (iii) at Landlord’s discretion, any additional real property, areas, land, buildings or other improvements added thereto.

1.1.2.1 **Common Areas.** Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the Rules and Regulations (as defined in Section 5.1 below), those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (such areas, together with such other portions of the Project designated by Landlord, in its discretion, including certain areas designated for the exclusive use of certain tenants, or to be shared by Landlord and certain tenants, are collectively referred to herein as the “**Common Areas**”). The Common Areas shall consist of the “**Project Common Areas**” and the “**Building Common Areas**” (as both of those terms are defined below). The term “**Project Common Areas**,” as used in this Lease, shall mean the portion of the Project designated as such by Landlord. The term “**Building Common Areas**,” as used in this Lease, shall mean the portions of the Common Areas located within the Building designated as such by Landlord. At Landlord’s election from time to time, the Common Areas may include certain shared use facilities that are under Landlord’s management and control, such as, but not limited to, fitness centers, conference and meeting rooms, visitors’ centers, cafés, cafeterias, and/or other food service operations, bicycle storage areas and/or bathroom and shower facilities (collectively, “**Shared Use Facilities**”). Landlord shall have the right to promulgate Rules and Regulations for the use of the Shared Use Facilities and the right to reasonably require, as a condition to use of any of such Shared Use Facilities, that Tenant’s employees and other users of any such Shared Use Facilities sign a waiver and release of liability as deemed appropriate by Landlord. In connection with the foregoing, as a Shared Use Facility, Landlord anticipates construction an amenity center on the ninth (9<sup>th</sup>) floor of the Building (the “**Amenity Center**”). The manner in which the Common Areas are maintained and operated shall be at the sole discretion of Landlord and the use thereof shall be subject to such rules, regulations and restrictions as Landlord may make from time to time, provided that such rules, regulations and restrictions do not unreasonably interfere with the rights granted to Tenant under this Lease and the Permitted Use. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas; provided that no such changes shall be permitted which materially reduce Tenant’s rights or access hereunder. Except

when and where Tenant's right of access is specifically excluded in this Lease, Tenant shall have the right of access to the Premises, the Building, and the Project parking facility twenty-four (24) hours per day, seven (7) days per week during the "Lease Term," as that term is defined in Section 2.1, below.

1.2 **Right of First Offer.** Landlord hereby grants Tenant a one-time right of first offer with respect to approximately 30,938 rentable square feet, commonly known as Suite 400, located on the fourth (4<sup>th</sup>) floor of the Building as depicted on **Exhibit G** attached hereto (the "**First Offer Space**"). Notwithstanding the foregoing, such first offer right of Tenant shall apply only following the expiration or earlier termination of the existing lease of the First Offer Space (including renewals of such lease, irrespective of whether such renewal is currently set forth in such lease or is subsequently granted or agreed upon, and regardless of whether such renewal is consummated pursuant to a lease amendment or a new lease). Tenant's right of first offer shall be on the terms and conditions set forth in this **Section 1.2**.

1.2.1 **Procedure for Offer.** Subject to the terms of this **Section 1.2**, Landlord shall notify Tenant (the "**First Offer Notice**") at least thirty (30) days prior to the anticipated "First Offer Commencement Date", as that term is defined in **Section 1.2.5**, below. Landlord shall not deliver a First Offer Notice earlier than April 1, 2027, unless Landlord will be responding to a request for proposal, or a proposal from a third party tenant for all or any portion of the First Offer Space. Pursuant to such First Offer Notice, Landlord shall offer to lease to Tenant the First Offer Space. The First Offer Notice shall describe the following proposed terms for Tenant's lease of the First Offer Space: (i) the base rent and share of Direct Expenses, (ii) any rental abatement concessions, (iii) improvements or allowances, (iv) security deposit, (v) any period of rental abatement, and (vi) other monetary concessions (collectively, the "**Economic Terms**").

1.2.2 **Procedure for Acceptance.** If Tenant wishes to exercise Tenant's right of first offer, then within twenty (20) days of delivery of the First Offer Notice to Tenant ("**Tenant's Exercise Period**"), Tenant shall deliver notice to Landlord (the "**First Offer Exercise Notice**") of Tenant's election to exercise its right of first offer with respect to the entire First Offer Space on the terms contained in the First Offer Notice. If Tenant does not so notify Landlord within such twenty (20) day period, then Landlord shall be free to lease the First Offer Space to anyone to whom Landlord desires on any terms Landlord desires. Notwithstanding the foregoing, if (i) Tenant was entitled to exercise its right of first offer pursuant to this **Section 1.2**, but did not accept Landlord's offer set forth in Landlord's First Offer Notice, and (ii) within a six (6) months period following Landlord's delivery of the First Offer Notice to Tenant, Landlord proposes to lease the First Offer Space to any potential third party tenant on Economic Terms less than ninety-five percent (95%) as favorable to Landlord as the Economic Terms offered in such First Offer Notice to Tenant (as determined using a Net Equivalent Lease Rate, as defined in **Exhibit H** attached hereto), then so long as Tenant's right of first offer has not otherwise terminated pursuant to **Section 1.2.6**, Landlord may not lease the First Offer Space to such third party tenant without first providing Tenant with a new First Offer Notice on such reduced Economic Terms ("**Modified First Offer Notice**"). If Landlord provides such a Modified First Offer Notice to Tenant, Tenant's Exercise Period (as defined in **Section 1.2.2** below) with respect to such Modified First Offer Notice shall be amended to be a period of ten (10) days. Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of first offer, if at all, with respect to all of the space offered by Landlord to Tenant, and Tenant may not elect to lease only a portion thereof.

1.2.3 **First Offer Space Rent.** The rent payable by Tenant for the First Offer Space (the "**First Offer Rent**") shall be as set forth in the First Offer Notice (and any Modified First Offer Notice).

1.2.4 **Construction in First Offer Space.** Tenant shall take the First Offer Space in its "as is" condition, and the construction of improvements in the First Offer Space shall comply with the terms of **Article 8** of this Lease subject to Landlord's express repair and maintenance obligations set forth in **Section 7**. Any improvement allowance to which Tenant may be entitled shall be as set forth in the First Offer Notice.

1.2.5 **Amendment to Lease.** If Tenant timely exercises Tenant's right to lease the First Offer Space, then Landlord and Tenant shall within thirty (30) days thereafter execute an amendment to this Lease for the First Offer Space upon the terms and conditions as set forth in the First Offer Notice and this **Section 1.2**; provided, however, that an otherwise valid exercise of the such right of first offer shall be fully effective whether or not a lease amendment is executed. Notwithstanding any contrary provision of this **Section 1.2**, the rentable square footage of the First Offer

Space shall be determined by Landlord in accordance with Landlord's then current standard of measurement for the Building. Tenant shall commence payment of rent for the First Offer Space, and the term of Tenant's lease of the First Offer Space shall commence, upon the date of delivery of the First Offer Space to Tenant (the "**First Offer Commencement Date**") and shall terminate as of the date set forth in the First Offer Notice.

1.2.6 **Termination of Right of First Offer.** The right of first offer granted herein shall terminate upon the earliest to occur of (i) failure by Tenant to exercise its right of first offer as offered by Landlord, subject to the terms of Section 1.2.2 above, (ii) Tenant's exercise of its right of first offer for all of the First Offer Space, (iii) Tenant's assignment of this Lease, other than to a Permitted Transferee Assignee, (iv) Tenant's sublease substantially all of the Premises, other than to a Permitted Transferee, for substantially the remaining Lease Term, and (v) the occurrence of the second (2<sup>nd</sup>) Event of Default. Tenant shall not have the right to lease First Offer Space, as provided in this Section 1.2, if, as of the date of the attempted exercise of any right of first offer by Tenant, or, at Landlord's option, as of the scheduled date of delivery of such First Offer Space to Tenant, an Event of Default is then occurring under this Lease.

1.3 **Rentable Square Feet of Premises and Building.** For purposes of this Lease, "rentable square feet" of the Premises shall be deemed as set forth in Section 2.2 of the Summary during the initial Lease Term and the rentable square feet of the Building shall be deemed as set forth in Section 2.1 of the Summary prior to the construction of the Amenity Center. Effective as of the commencement of the Option Term (as defined in Section 2.2.1 below), notwithstanding any contrary provision contained herein, the Premises shall be deemed to contain 60,332 rentable square feet of space, comprised of (a) 29,394 rentable square feet consisting of the entire second (2<sup>nd</sup>) floor of the Building and commonly known as Suite 200; and (b) 30,938 rentable square feet comprising the entire third (3<sup>rd</sup>) floor of the Building and commonly known as Suite 300. In connection with Landlord's completion of the Amenity Center, Landlord's architect (or such other planner/designer designated by Landlord) shall remeasure the Building (including the Premises) in accordance with the Landlord's then-current measurement standard for the Project. If Landlord's architect (or such other planner/designer designated by Landlord) determines that the rentable square foot footage of the Building (including the Premises) shall be different from as set forth in this Lease, all amounts, percentages and figures appearing or referred to in this Lease based upon such incorrect rentable square footage of the Building shall be modified in accordance with such determination, memorialized in writing as may be delivered by Landlord to Tenant; provided that neither the total amount of Base Rent payable under this Lease nor Tenant's Share shall increase as a result of any such remeasurement.

## ARTICLE 2

### LEASE TERM; OPTION TERM

2.1 **Initial Lease Term.** The TCCs and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the "**Lease Term**") shall be as set forth in Section 3.1 of the Summary, shall commence on the date set forth in Section 3.2 of the Summary (the "**Lease Commencement Date**"), and shall terminate on the date set forth in Section 3.3 of the Summary (the "**Lease Expiration Date**") unless this Lease is sooner terminated as hereinafter provided. For purposes of this Lease, the term "**Lease Year**" shall mean each consecutive twelve (12) calendar month period during the Lease Term; provided, however, that the first Lease Year shall commence on the Lease Commencement Date and end on the last day of the month in which the first anniversary of the Lease Commencement Date occurs (or if the Lease Commencement Date is the first day of a calendar month, then the first Lease Year shall commence on the Lease Commencement Date and end on the day immediately preceding the first anniversary of the Lease Commencement Date), and the second and each succeeding Lease Year shall commence on the first day of the next calendar month; and further provided that the last Lease Year shall end on the Lease Expiration Date. For purposes of this Lease, the term "**Lease Month**" shall mean each succeeding calendar month during the Lease Term; provided that the first Lease Month shall commence on the Lease Commencement Date and shall end on the last day of the first (1<sup>st</sup>) full calendar month of the Lease Term and that the last Lease Month shall expire on the Lease Expiration Date. At any time during the Lease Term, Landlord may deliver to Tenant a notice in the form as set forth in Exhibit C, attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within five (5) days of receipt thereof.

#### 2.2 Option Term.



2.2.1 **Option Right.** Landlord hereby grants the tenant originally named herein (the “**Original Tenant**”) and its “Permitted Transferee Assignee,” as that term is set forth in Section 14.8 of this Lease, one (1) option to extend the Lease Term for the entire Premises by a period of three (3) years (the “**Option Term**”). Such option shall be exercisable only by “Notice” (as that term is defined in Section 29.18 of this Lease) delivered by Tenant to Landlord as provided below, provided that, as of the date of delivery of such Notice, (i) no Event of Default is then occurring under this Lease, and (ii) not more than one (1) Event of Default has occurred during the prior Lease Term. Upon the proper exercise of such option to extend, and provided that, at Landlord’s election, as of the end of the Lease Term, (A) no Event of Default is then occurring under this Lease, and (B) no Event of Default under this Lease has previously occurred, then the Lease Term, as it applies to the entire Premises, shall be extended for a period of three (3) years. The rights contained in this Section 2.2 shall only be exercised by the Original Tenant or its Permitted Transferee Assignee (and not any other assignee, sublessee or other transferee of the Original Tenant’s interest in this Lease) if Original Tenant and/or its Permitted Transferee Assignee is in occupancy of the entire then-existing Premises.

2.2.2 **Option Rent.** The Rent payable by Tenant during the Option Term (the “**Option Rent**”) shall be equal to the “Market Rent,” as that term is defined in, and determined pursuant to, Exhibit H attached hereto; provided, however, that the Market Rent for each Lease Year during the Option Term, shall be equal to the amount set forth on a “Market Rate Schedule,” as that term is defined below. The “**Market Rate Schedule**” shall be derived from the Market Rent for the Option Term as determined pursuant to Exhibit H, attached hereto, as follows: (i) the Market Rent for the first Lease Year of the Option Term shall be equal to the sum of (a) the Market Rent, as determined pursuant to Exhibit H, (b) the amount of Direct Expenses applicable to the Premises, as reasonably determined by Landlord, for the calendar year in which the Option Term commences, and (c) an amount equal to the monthly amortization reimbursement payment for the “Renewal Allowance” (as defined in Section 3 of Exhibit H to this Lease) to be paid by Landlord in connection with Tenant’s lease of the Premises for the Option Term, with such Renewal Allowance being amortized at a reasonable rate of return to Landlord based on the rates of return then being received by the landlords of the “Comparable Buildings” as that term is set forth in Section 4 of Exhibit H attached hereto, in connection with improvement allowances then being granted by such landlords, and (ii) the Market Rent for each subsequent Lease Year shall be equal to one hundred three percent (103%) of the prior Lease Year’s Market Rent. The calculation of the Market Rent shall be derived from a review of, and comparison to, the “Net Equivalent Lease Rates” of the “Comparable Transactions,” as provided for in Exhibit H.

2.2.3 **Exercise of Option.** The option contained in this Section 2.2 shall be exercised by Tenant, if at all, only in the manner set forth in this Section 2.2. Tenant shall deliver notice (the “**Exercise Notice**”) to Landlord not more than twelve (12) months nor less than nine (9) months prior to the expiration of the initial Lease Term, stating that Tenant is exercising its option. Concurrently with such Exercise Notice, Tenant shall deliver to Landlord Tenant’s calculation of the Market Rent (the “**Tenant’s Option Rent Calculation**”). Landlord shall deliver notice (the “**Landlord Response Notice**”) to Tenant on or before the date which is thirty (30) days after Landlord’s receipt of the Exercise Notice and Tenant’s Option Rent Calculation, stating that (A) Landlord is accepting Tenant’s Option Rent Calculation as the Market Rent, or (B) rejecting Tenant’s Option Rent Calculation and setting forth Landlord’s calculation of the Market Rent (the “**Landlord’s Option Rent Calculation**”). Within ten (10) business days of its receipt of the Landlord Response Notice, Tenant may, at its option, accept the Market Rent contained in the Landlord’s Option Rent Calculation. If Tenant does not affirmatively accept or Tenant rejects the Market Rent specified in the Landlord’s Option Rent Calculation, the parties shall follow the procedure set forth in Section 2.2.4 below, and the Market Rent shall be determined in accordance with the terms of Section 2.2.4 below.

2.2.4 **Determination of Market Rent.** In the event Tenant timely and appropriately exercises its option to extend the Lease but rejects the Option Rent set forth in the Landlord’s Option Rent Calculation pursuant to Section 2.2.3, above, then Landlord and Tenant shall attempt to agree upon the Option Rent using their best good-faith efforts. If Landlord and Tenant fail to reach agreement upon the Option Rent applicable to the Option Term on or before the date that is ninety (90) days prior to the expiration of the initial Lease Term (the “**Outside Agreement Date**”), then the Option Rent shall be determined by arbitration pursuant to the terms of this Section 2.2.4. Each party shall make a separate determination of the Option Rent, within five (5) days following the Outside Agreement Date,



and such determinations shall be submitted to arbitration in accordance with Section 2.2.4.1 through Section 2.2.4.4, below.

2.2.4.1 Landlord and Tenant shall each appoint one arbitrator who shall by profession be a MAI appraiser, real estate broker, or real estate lawyer who shall have been active over the five (5) year period ending on the date of such appointment in the appraising and/or leasing of first class office properties in the vicinity of the Building. The determination of the arbitrators shall be limited solely to the issue area of whether Landlord's or Tenant's submitted Option Rent is the closest to the actual Option Rent as determined by the arbitrators, taking into account the requirements of Section 2.2.2 of this Lease. Each such arbitrator shall be appointed within fifteen (15) days after the Outside Agreement Date. Landlord and Tenant may consult with their selected arbitrators prior to appointment and may select an arbitrator who is favorable to their respective positions (including an arbitrator who has previously represented Landlord and/or Tenant, as applicable). The arbitrators so selected by Landlord and Tenant shall be deemed "**Advocate Arbitrators.**"

2.2.4.2 The two Advocate Arbitrators so appointed shall be specifically required pursuant to an engagement letter within ten (10) days of the appointment of the last appointed Advocate Arbitrator to agree upon and appoint a third arbitrator ("**Neutral Arbitrator**") who shall be qualified under the same criteria set forth hereinabove for qualification of the two Advocate Arbitrators except that (i) neither the Landlord or Tenant or either parties' Advocate Arbitrator may, directly, or indirectly, consult with the Neutral Arbitrator prior or subsequent to his or her appearance, and (ii) the Neutral Arbitrator cannot be someone who has represented Landlord and/or Tenant during the five (5) year period prior to such appointment. The Neutral Arbitrator shall be retained via an engagement letter jointly prepared by Landlord's counsel and Tenant's counsel.

2.2.4.3 Within ten (10) days following the appointment of the Arbitrator, Landlord and Tenant shall enter into an arbitration agreement (the "**Arbitration Agreement**") which shall set forth the following:

2.2.4.3.1 Each of Landlord's and Tenant's best and final and binding determination of the Option Rent exchanged by the parties pursuant to Section 2.2.4, above;

2.2.4.3.2 An agreement to be signed by the Neutral Arbitrator, the form of which agreement shall be attached as an exhibit to the Arbitration Agreement, whereby the Neutral Arbitrator shall agree to undertake the arbitration and render a decision in accordance with the terms of this Lease, as modified by the Arbitration Agreement, and shall require the Neutral Arbitrator to demonstrate to the reasonable satisfaction of the parties that the Neutral Arbitrator has no conflicts of interest with either Landlord or Tenant;

2.2.4.3.3 Instructions to be followed by the Neutral Arbitrator when conducting such arbitration;

2.2.4.3.4 That Landlord and Tenant shall each have the right to submit to the Neutral Arbitrator (with a copy to the other party), on or before the date that occurs fifteen (15) days following the appointment of the Neutral Arbitrator, an advocate statement (and any other information such party deems relevant) prepared by or on behalf of Landlord or Tenant, as the case may be, in support of Landlord's or Tenant's respective determination of Option Rent (the "**Briefs**");

2.2.4.3.5 That within five (5) business days following the exchange of Briefs, Landlord and Tenant shall each have the right to provide the Neutral Arbitrator (with a copy to the other party) with a written rebuttal to the other party's Brief (the "**First Rebuttals**"); provided, however, such First Rebuttals shall be limited to the facts and arguments raised in the other party's Brief and shall identify clearly which argument or fact of the other party's Brief is intended to be rebutted;

2.2.4.3.6 That within five (5) business days following the parties' receipt of each other's First Rebuttal, Landlord and Tenant, as applicable, shall each have the right to provide the Neutral Arbitrator (with a copy to the other party) with a written rebuttal to the other party's First Rebuttal (the "**Second Rebuttals**"); provided, however, such Second Rebuttals shall be limited to the facts and arguments raised in the other party's First Rebuttal and shall identify clearly which argument or fact of the other party's First Rebuttal is intended to be rebutted;

2.2.4.3.7 The date, time and location of the arbitration, which shall be mutually and reasonably agreed upon by Landlord and Tenant, taking into consideration the schedules of the Neutral Arbitrator, the Advocate Arbitrators, Landlord and Tenant, and each party's applicable consultants, which date shall in any event be within forty-five (45) days following the appointment of the Neutral Arbitrator;

2.2.4.3.8 That no discovery shall take place in connection with the arbitration, other than to verify the factual information that is presented by Landlord or Tenant;

2.2.4.3.9 That the Neutral Arbitrator shall not be allowed to undertake an independent investigation or consider any factual information other than presented by Landlord or Tenant, except that the Neutral Arbitrator shall be permitted to visit the Project and the buildings containing the Comparable Transactions;

2.2.4.3.10 The specific persons that shall be allowed to attend the arbitration;

2.2.4.3.11 Tenant shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed three (3) hours ("**Tenant's Initial Statement**");

2.2.4.3.12 Following Tenant's Initial Statement, Landlord shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed three (3) hours ("**Landlord's Initial Statement**");

2.2.4.3.13 Following Landlord's Initial Statement, Tenant shall have up to two (2) additional hours to present additional arguments and/or to rebut the arguments of Tenant ("**Tenant's Rebuttal Statement**");

2.2.4.3.14 Following Tenant's Rebuttal Statement, Landlord shall have up to two (2) additional hours to present additional arguments and/or to rebut the arguments of Tenant;

2.2.4.3.15 That, not later than ten (10) days after the date of the arbitration, the Neutral Arbitrator shall render a decision (the "**Ruling**") indicating whether Landlord's or Tenant's submitted Option Rent is closer to the Neutral Arbitrator's determination of the Option Rent;

2.2.4.3.16 That following notification of the Ruling, Landlord's or Tenant's submitted Option Rent determination, whichever is selected by the Neutral Arbitrator as being closer to the Neutral Arbitrator's determination of the Option Rent shall become the then applicable Option Rent; and

2.2.4.3.17 That the decision of the Neutral Arbitrator shall be binding on Landlord and Tenant.

2.2.4.3.18 If a date by which an event described in Section 2.2.4.3, above, is to occur falls on a weekend or a holiday, the date shall be deemed to be the next business day.

2.2.4.4 In the event that the Option Rent shall not have been determined pursuant to the terms hereof prior to the commencement of the Option Term, Tenant shall be required to pay as the interim monthly Option Rent an amount equal to One Hundred Five percent (105%) of the monthly Base Rent in effect under the Lease for the Lease Year immediately preceding the commencement of the Option, and upon the final determination of the Option Rent, the payments made by Tenant shall be reconciled with the actual amounts due, and the appropriate party shall make any corresponding payment to the other party.

2.3 **Existing Sublease.** Tenant is already in occupancy of the Premises pursuant to the terms of the Existing Sublease, which is a sublease under that certain Office Lease dated October 25, 2017 (the "**Master Lease**") between Landlord and Postmates Inc ("**Existing Master Tenant**"). Landlord consented to the Existing Sublease pursuant to that certain Landlord Consent to Sublease dated as of June 10, 2021 ("**Landlord's Sublease Consent**"). The Existing Sublease is scheduled to expire on September 30, 2025. However, the Master Lease is not scheduled to expire until October 31, 2025. Landlord is negotiating with the Existing Master Tenant to accelerate the scheduled Master Lease

expiration date to occur on September 30, 2025. However, if Landlord is unable to reach agreement with Existing Master Tenant, then Tenant may elect to holdover in the Premises under the Existing Sublease for a period of one (1) month, and in such event, (i) the Lease Commencement Date shall automatically be modified to be November 1, 2025, (ii) the Base Rent Abatement Period shall be reduced by one (1) month (and the Base Rent Abatement shall be reduced by \$225,325.83), (iii) Landlord shall reimburse Tenant for any rent due and paid under the Existing Sublease to the Existing Master Tenant for such one (1) month period and indemnify Tenant from and against any Losses resulting from Tenant holding over in the Premises pursuant to Section 18 of the Existing Sublease for holding over during such one (1) month period, including reasonable attorneys fees, (iv) the Lease Expiration Date and the timing of increases of Base Rent amounts shall not be modified, (v) Landlord shall not enforce any holdover remedies or penalties against the Existing Master Tenant for such holding over by Tenant, (vi) Tenant shall not negotiate with the Existing Master Tenant or otherwise enter into an agreement with the Existing Master Tenant to modify or amend the terms of the Existing Sublease, (vii) Tenant shall not be required to remove any of the alterations or improvements situated in the Premises as of the Lease Commencement Date, and (viii) pursuant to Section 18 of the Existing Sublease, Landlord shall waive the requirement set forth in Section 8.5 of the Master Lease that Existing Master Tenant or Tenant remove any of the leasehold improvements existing in the Premises on the "Commencement Date" as that term is defined in the Existing Sublease.

### **ARTICLE 3**

#### **BASE RENT**

3.1 **In General.** Tenant shall pay, without prior notice or demand, to Landlord or Landlord's agent at the management office of the Project, or, at Landlord's option, at such other place as Landlord may from time to time designate in writing, by a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, or, at Tenant's option, by wire or ACH transfer of immediately available funds to Landlord's bank account, the details of which Landlord shall provide to Tenant upon request, base rent ("**Base Rent**") as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever. In accordance with Section 4 of the Summary, any increases in Base Rent shall occur on the first day of the applicable Lease Month. The parties acknowledge, however, that Tenant shall pay Base Rent for each "calendar month" of the Lease Term (or a prorated portion of a "calendar month", as applicable), even though the first "Lease Month" may pertain to a period longer than one (1) calendar month. The Base Rent for the first full month of the Lease Term which occurs after the expiration of any free rent period shall be paid at the time of Tenant's execution of this Lease. If any payment of Rent is for a period which is shorter than one month, the Rent for any such fractional month shall accrue on a daily basis during such fractional month and shall total an amount equal to the product of (i) a fraction, the numerator of which is the number of days in such fractional month and the denominator of which is the actual number of days occurring in such calendar month, and (ii) the then-applicable Monthly Installment of Base Rent. All other payments or adjustments required to be made under the TCCs of this Lease that require proration on a time basis shall be prorated on the same basis.

3.2 **Abated Base Rent.** Provided that no Event of Default is then occurring under this Lease during the period commencing on October 1, 2025 and ending when the Base Rent Abatement has been fully utilized (the "**Base Rent Abatement Period**"), Tenant shall not be obligated to pay any Base Rent otherwise attributable to the Premises during such Base Rent Abatement Period. The "**Base Rent Abatement**") means an amount equal to Two Million Five Hundred Sixty-Four Thousand Eight Hundred Seventy-Nine and 15/100 Dollars (\$2,564,879.15). Tenant acknowledges and agrees that during such Base Rent Abatement Period, such abatement of Base Rent for the Premises shall have no effect on the calculation of any future increases in Base Rent or Direct Expenses payable by Tenant pursuant to the terms of this Lease, which increases shall be calculated without regard to such Base Rent Abatement. Additionally, Tenant shall be obligated to pay all "Additional Rent" (as that term is defined in Section 4.1 of this Lease) during the Base Rent Abatement Period. Tenant acknowledges and agrees that the foregoing Base Rent Abatement has been granted to Tenant as additional consideration for entering into this Lease, and for agreeing to pay the Base Rent and perform the terms and conditions otherwise required under this Lease. If Tenant shall be in default under this Lease and shall fail to cure such default within the notice and cure period, if any, permitted for cure pursuant to this Lease, or if this Lease is terminated for any reason other than Landlord's breach of this Lease, then the dollar amount of the unapplied portion of the Base Rent Abatement as of the date of such default or termination, as the case



may be, shall be converted to a credit to be applied to the Base Rent applicable at the end of the Lease Term and Tenant shall immediately be obligated to begin paying Base Rent for the Premises in full. The foregoing Base Rent Abatement right set forth in this Section 3.2 shall be personal to the Original Tenant and shall only apply to the extent that the Original Tenant (and not any assignee, or any sublessee or other transferee of the Original Tenant's interest in this Lease) is the Tenant under this Lease during such Base Rent Abatement Period.

#### ARTICLE 4

#### ADDITIONAL RENT

4.1 **In General.** In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay "Tenant's Share" of the annual "Direct Expenses," as those terms are defined in Sections 4.2.6 and 4.2.2, respectively, of this Lease, which are in excess of the amount of Direct Expenses applicable to the "Base Year," as that term is defined in Section 4.2.1, below; provided, however, that in no event shall any decrease in Direct Expenses for any "Expense Year" (as that term is defined in Section 4.2.3, below) below Direct Expenses for the Base Year entitle Tenant to any decrease in Base Rent or any credit against sums due under this Lease. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord pursuant to the TCCs of this Lease, are hereinafter collectively referred to as the "**Additional Rent**," and the Base Rent and the Additional Rent are herein collectively referred to as "**Rent**." All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent; provided, however, the parties hereby acknowledge that the first monthly installment of Tenant's Share of any "Estimated Excess," as that term is set forth in, and pursuant to the terms and conditions of, Section 4.4.2 of this Lease, shall first be due and payable for the calendar month occurring immediately following the expiration of the Base Year. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.2 **Definitions of Key Terms Relating to Additional Rent.** As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 "**Base Year**" shall mean the period set forth in Section 5 of the Summary.

4.2.2 "**Direct Expenses**" shall mean "Operating Expenses" and "Tax Expenses."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, replacement, renovation, restoration or operation of the Project, or any portion thereof, in accordance with sound real estate management and accounting practices, consistently applied. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities (but excluding the cost of electricity consumed in the Premises and the premises of other tenants of the Building (since Tenant is separately paying for the cost of electricity pursuant to Section 6.1.2 of this Lease)), the cost of operating, repairing, replacing, maintaining, renovating and restoring the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses, and the costs incurred in connection with a governmentally mandated transportation system management program or similar program; (iii) the cost of all insurance carried by Landlord in connection with the Project; (iv) the cost of landscaping, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Project, or any portion thereof; (v) costs incurred in connection with the parking areas servicing the Project; (vi) fees and other costs, including management fees, consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with

the management, operation, maintenance, replacement, renovation, repair and restoration of the Project; (vii) payments under any equipment rental agreements and the fair rental value of any management office space; (viii) wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons (other than persons generally considered to be higher in rank than the position of "Senior Asset Manager") engaged in the operation, maintenance and security of the Project; (ix) costs under any instrument pertaining to the sharing of costs by the Project; (x) operation, repair, maintenance, renovation, replacement and restoration of all systems and equipment and components thereof of the Project; (xi) the cost of janitorial services to the Project (but excluding the cost of janitorial services in the Premises and the premises of other tenants of the Building and any other buildings in the Project (as opposed to the Common Areas) since Tenant is separately paying for the cost of janitorial services in the Premises pursuant to Section 6.4 of the Lease), alarm, security and other services, replacement, renovation, restoration and repair of wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance, replacement, renovation, repair and restoration of curbs and walkways, repair to roofs and re-roofing; (xii) amortization of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof (which amortization calculation shall include interest at the "Interest Rate," as that term is set forth in Article 25 of this Lease); (xiii) the cost of capital improvements or other costs incurred in connection with the Project (A) which are intended to effect economies in the operation or maintenance of the Project, or any portion thereof (provided that Landlord, based on expert third party advice, reasonably believes that such improvements will reduce Operating Expense costs or improve the operating efficiency of the Project), (B) that are required to comply with present or anticipated conservation programs, (C) which are replacements or modifications of nonstructural items located in the Common Areas required to keep the Common Areas in good order or condition, (D) that are required under any Applicable Laws (as defined in Section 24.1), except for capital repairs, replacements or other improvements to remedy a condition existing prior to the Lease Commencement Date which an applicable governmental authority, if it had knowledge of such condition prior to the Lease Commencement Date, would have then required to be remedied pursuant to then-current Applicable Laws in their form existing as of the Lease Commencement Date and pursuant to the then-current interpretation of such governmental laws or regulations by the applicable governmental authority as of the Lease Commencement Date (E) reasonably incurred in connection with Landlord's Sustainability and Wellness Requirements (as defined in Section 29.37 of this Lease) including, without limitation, those that are required in order for the Project, or any portion thereof, to obtain or maintain any Sustainability and Wellness Certification (as defined in Section 29.37 of this Lease), or (F) that relate to the safety or security of the Project; provided, however, that any capital expenditure shall be amortized with interest at the Interest Rate over the shorter of (X) seven (7) years, (Y) its useful life as Landlord shall reasonably determine in accordance with sound real estate management and accounting practices consistently applied, or (Z) with respect to those items included under item (A) above, their recovery/payback period as Landlord shall reasonably determine in accordance with sound real estate management and accounting practices consistently applied; (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute "Tax Expenses" as that term is defined in Section 4.2.5, below; (xv) payments under any Underlying Documents and (xvi) costs of any additional services not provided to the Project as of the Lease Commencement Date but which are thereafter provided by Landlord in connection with its prudent management of the Project.

Notwithstanding the foregoing, Operating Expenses shall not, however, include:

(a) costs, including marketing costs, legal fees, space planners' fees, advertising and promotional expenses, and brokerage fees incurred in connection with the original construction or development, or original or future leasing of the Project, and costs, including permit, license and inspection costs, incurred with respect to the installation of improvements made for new tenants initially occupying space in the Project after the Lease Commencement Date or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project (excluding, however, such costs relating to any common areas of the Project or parking facilities);

(b) except as set forth in items (xi), (xii), and (xiii) above, depreciation, interest and principal payments on mortgages and other debt costs, if any, penalties and interest;

(c) costs for which the Landlord is reimbursed by any tenant or occupant of the Project or by insurance by its carrier or any tenant's carrier or by anyone else or by warranty proceeds (except to the



extent of deductibles), and electric power costs for which any tenant directly contracts with the local public service company;

(d) any bad debt loss, rent loss, or reserves for bad debts or rent loss;

(e) costs associated with the operation of the business of the partnership or entity which constitutes the Landlord, as the same are distinguished from the costs of operation of the Project (which shall specifically include, but not be limited to, accounting costs associated with the operation of the Project). Costs associated with the operation of the business of the partnership or entity which constitutes the Landlord include costs of partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of the Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Project, and costs incurred in connection with any disputes between Landlord and its employees, between Landlord and Project management, or between Landlord and other tenants or occupants, and Landlord's general corporate overhead and general and administrative expenses;

(f) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating and managing the Project vis-a-vis time spent on matters unrelated to operating and managing the Project; provided, that in no event shall Operating Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Senior Asset Manager;

(g) amount paid as ground rental for the Project by the Landlord;

(h) overhead and profit increment paid to the Landlord or to subsidiaries or affiliates of the Landlord for services in the Project to the extent the same exceeds the costs of such services rendered by qualified, first-class unaffiliated third parties on a competitive basis;

(i) any compensation paid to clerks, attendants or other persons in commercial concessions operated by the Landlord, provided that any compensation paid to any concierge or parking attendants at the Project shall be includable as an Operating Expense;

(j) rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment which if purchased the cost of which would be excluded from Operating Expenses as a capital cost, except equipment not affixed to the Project which is used in providing janitorial or similar services and, further excepting from this exclusion such equipment rented or leased to remedy or ameliorate an emergency condition in the Project ;

(k) all items and services for which Tenant or any other tenant in the Project reimburses Landlord or which Landlord provides selectively to one or more tenants (other than Tenant) without reimbursement;

(l) costs, other than those incurred in ordinary maintenance and repair, for sculpture, paintings, fountains or other objects of art;

(m) any costs expressly excluded from Operating Expenses elsewhere in this Lease;

(n) rent for any office space occupied by Project management personnel to the extent the size or rental rate of such office space exceeds the size or fair market rental value of office space occupied by management personnel of the "Comparable Buildings ," as that term is defined in Section 4 of Exhibit H to this Lease, with adjustment where appropriate for the size of the applicable project;

(o) costs to the extent arising from the gross negligence or willful misconduct of Landlord or its agents, employees, vendors, contractors, or providers of materials or services;



(p) costs incurred to comply with laws relating to the removal of hazardous material or substance (as defined under applicable law) which was in existence in the Building or on the Project prior to the Lease Commencement Date, and was of such a nature that a federal, state, local or municipal governmental authority, if it had then had knowledge of the presence of such hazardous material or substance, in the state, and under the conditions that it then existed in the Building or on the Project, would have then required the removal of such hazardous material or substance or other remedial or containment action with respect thereto, but only to the extent those laws were then being actively enforced by the applicable government authority; and costs incurred to remove, remedy, contain, or treat hazardous material or substance, which hazardous material or substance is brought into the Building or onto the Project after the date hereof by Landlord or any other tenant of the Project and is of such a nature, at that time, that a federal, state, local or municipal governmental authority, if it had then had knowledge of the presence of such hazardous material or substance, in the state, and under the conditions, that it then exists in the Building or on the Project, would have then required the removal of such hazardous material or substance or other remedial or containment action with respect thereto, but only to the extent those laws were then being actively enforced by the applicable government authority.

(q) fees payable by Landlord for management of the Project in excess of five percent (5%) of Landlord's gross rental revenues from the Project, adjusted and grossed up to reflect a one hundred percent (100%) occupancy of the Project with all tenants paying full rent (specifically disregarding free or abated rent), including base rent, pass-throughs, and parking fees from the Project for any calendar year or portion thereof;

(r) reserves not spent by Landlord by the end of the calendar year for which Operating Expenses are paid;

(s) costs of a capital nature (including capital improvements, replacements, and repairs) other than as permitted in Section 4.2.4 above (subject to the amortization of such costs as provided therein);

(t) penalties incurred as a result of Landlord's failure to make payments of Tax Expenses or Operating Expenses when due (unless Landlord in good faith disputes a charge and subsequently loses or settles such dispute);

(u) costs of any penalty or fine incurred by Landlord due to Landlord's violation of any federal, state or local law or regulation and any interest or payment due for late payment by Landlord of any of the Operating Expenses;

(v) advertising and promotional expenditures primarily directed toward leasing tenant space in the Building and costs of signs in or on the Building identifying any tenant of the Building, except the Building directories;

(w) costs to the extent arising from the intentional violation of laws by Landlord or its agents or employees;

(x) Landlord's charitable and political contributions;

(y) attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants of the Building; and

(z) Any costs associated with the construction, fitting out or decoration of the Amenity Center, or with the acquisition or installation of any furnishings, fixtures or equipment in the Amenity Center.

If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Project is not at least ninety-five percent (95%) occupied during all or a portion of the Base Year or any Expense Year, Landlord may elect to make an appropriate



adjustment to those components of Operating Expenses that vary depending on occupancy for such year to determine the amount of Operating Expenses that would have been incurred had the Project been one hundred percent (100%) occupied; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Operating Expenses for the Base Year shall not include market-wide cost increases (including utility rate increases) due to extraordinary circumstances, including, but not limited to, Force Majeure, boycotts, strikes, conservation surcharges, embargoes or shortages, or amortized costs. In no event shall each of the components of Direct Expenses for any Expense Year related to utility costs, Tax Expenses, Project services costs (i.e., amounts paid by Landlord to third party vendors for services rendered with respect to, or products provided or supplied to, the Project) or Project insurance costs be less than each of the corresponding components of Direct Expenses related to such utility costs, Tax Expenses, Project services costs and Project insurance costs in the Base Year. Landlord shall not (i) make a profit by charging items to Operating Expenses that are otherwise also charged separately to others and (ii) subject to Landlord's right to adjust the components of Operating Expenses described above in this paragraph, collect Operating Expenses from Tenant and all other tenants in the Building in an amount in excess of what Landlord incurs for the items included in Operating Expenses.

#### 4.2.5 **Tax Expenses.**

4.2.5.1 **Inclusions.** "Tax Expenses" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof), which shall be paid or accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Project, or any portion thereof including, without limitation: (i) any tax on the rent, right to rent or other income from the Project, or any portion thereof, or as against the business of leasing the Project, or any portion thereof; (ii) any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June 1978 election ("Proposition 13") and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, (iii) any governmental or private assessments or the Project's contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies; (iv) any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable hereunder, including, without limitation, any business or gross income tax or excise tax with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; (v) any assessment, tax, fee, levy or charge, upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises; and (vi) all of the real estate taxes and assessments imposed upon or with respect to the Building and all of the real estate taxes and assessments imposed on the land and improvements comprising the Project. Notwithstanding the foregoing, Tax Expenses shall not include any amounts that Landlord elects to charge to Tenant directly pursuant to Section 4.2.5.3 below.

4.2.5.2 **In General.** Any costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year such expenses are paid. Except as set forth in Section 4.2.5.4, below, refunds of Tax Expenses shall be credited against Tax Expenses and refunded to Tenant regardless of when received, based on the Expense Year to which the refund is applicable, provided that in no event shall the amount to be refunded to Tenant for any such Expense Year exceed the total amount paid by Tenant as an increase in Tax Expenses under this Article 4 for such Expense Year. If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord within fifteen (15) days after Landlord's delivery of written demand

Tenant's Share of any such increased Tax Expenses included by Landlord as Building Tax Expenses pursuant to the TCCs of this Lease. In addition, and notwithstanding anything to the contrary in this Lease, if a repeal, replacement or modification of Proposition 13 (a "**Replacement Proposition**") results in an adjustment of the Tax Expenses attributable to the Base Year (any such increase in Tax Expenses attributable to the Base Year that results from a Replacement Proposition, a "**Base Year Replacement Proposition Tax Increase**"), then (i) Tenant shall pay Tenant's Share of the amount of the Base Year Replacement Proposition Tax Increase as Additional Rent, (ii) Tax Expenses for the Base Year shall be deemed to not include the amount of the Base Year Replacement Proposition Tax Increase (provided that increases in Tax Expenses for all Expense Years subsequent to the Base Year shall include increases attributable to the Replacement Proposition). Notwithstanding anything to the contrary set forth in this Lease, only Landlord may institute proceedings to reduce Tax Expenses and the filing of any such proceeding by Tenant without Landlord's consent shall constitute an Event of Default by Tenant under this Lease. Notwithstanding the foregoing, Landlord shall not be obligated to file any application or institute any proceeding seeking a reduction in Tax Expenses.

4.2.5.3 **Exclusions.** Notwithstanding anything to the contrary contained in this Section 4.2.5.3 (except as set forth in Section 4.2.5.2 above), there shall be excluded from Tax Expenses (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Project), (ii) documentary transfer taxes, (iii) any items included as Operating Expenses, (iv) any items paid by Tenant under Section 4.5 of this Lease, (v) tax penalties, interest or late charges, and (vi) any amounts charged directly to Tenant or other tenants, including pursuant to Section 4.5 or pursuant to provisions of any other tenant's lease similar to Section 4.5 below.

4.2.5.4 **Adjustments to Tax Expenses.** Notwithstanding anything to the contrary set forth in this Lease, the amount of Tax Expenses for the Base Year and any Expense Year shall be calculated without taking into account any decreases in real estate taxes obtained in connection with Proposition 8, and, therefore, the Tax Expenses in the Base Year and/or an Expense Year may be greater than those actually incurred by Landlord, but shall, nonetheless, be the Tax Expenses due under this Lease; provided that (i) any costs and expenses incurred by Landlord in securing any Proposition 8 reduction shall not be included in Direct Expenses for purposes of this Lease, and (ii) tax refunds under Proposition 8 shall not be deducted from Tax Expenses, but rather shall be the sole property of Landlord. This Section 4.2.5.4 is not intended to in any way affect (A) the inclusion in Tax Expenses of the statutory two percent (2.0%) annual maximum allowable increase in Tax Expenses (as such statutory increase may be modified by subsequent legislation), or (B) the inclusion or exclusion of Tax Expenses pursuant to the terms of Proposition 13, which shall be governed pursuant to the terms of Sections 4.2.5.1 through 4.2.5.3, above. The terms of this Section 4.2.4.4 shall not be applicable following the enactment of a Replacement Proposition that results in an annual adjustment of the Tax Expenses based on the then current value of the Project, without regard to mandatory annual inflationary increases.

4.2.6 "**Tenant's Share**" shall mean the percentage set forth in Section 6 of the Summary.

4.3 **Cost Pools.** Landlord shall have the right, from time to time, to equitably allocate some or all of the Direct Expenses for the Project among different portions or occupants of the Project (the "**Cost Pools**"), in Landlord's discretion. Such Cost Pools may include, but shall not be limited to, the office space tenants of a building of the Project or of the Project, and the retail space tenants of a building of the Project or of the Project. The Direct Expenses within each such Cost Pool shall be allocated and charged to the tenants within such Cost Pool in an equitable manner.

4.4 **Calculation and Payment of Tenant's Share of Direct Expenses.** If for any Expense Year ending or commencing within the Lease Term, Tenant's Share of Direct Expenses for such Expense Year exceeds Tenant's Share of Direct Expenses applicable to the Base Year, then Tenant shall pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, an amount equal to the excess (the "**Excess**").

4.4.1 **Statement of Actual Direct Expenses and Payment by Tenant.** Landlord shall give to Tenant following the end of each Expense Year, a statement (the "**Statement**") which shall state in general major categories the Direct Expenses incurred or accrued for the particular Expense Year, and which (for Expense Years other than the Base Year) shall indicate the amount of the Excess. Landlord shall use commercially reasonable efforts to deliver such Statement to Tenant on or before May 1 following the end of the Expense Year to which such Statement

relates. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, if an Excess is present, Tenant shall pay, within thirty (30) days after receipt of the Statement, the full amount of the Excess for such Expense Year, less the amounts, if any, paid during such Expense Year as "Estimated Excess," as that term is defined in Section 4.4.2, below, and if Tenant paid more as Estimated Excess than the actual Excess, Tenant shall receive a credit in the amount of Tenant's overpayment against Rent next due under this Lease or Landlord may apply such overpayment against any unpaid Rent. Except as provided below in this Section 4.4.1, the failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of Direct Expenses for the Expense Year in which this Lease terminates, if an Excess is present, Tenant shall, within thirty (30) days after receipt of the Statement, pay to Landlord such amount, and if Tenant paid more as Estimated Excess than the actual Excess, Landlord shall, within thirty (30) days, deliver a check payable to Tenant in the amount of the overpayment or apply such overpayment against any unpaid Rent. The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease Term. Notwithstanding the immediately preceding sentence, Tenant shall not be responsible for Tenant's Share of any Direct Expenses attributable to any Expense Year which are first billed to Tenant more than eighteen (18) full calendar months after the Lease Expiration Date, provided that in any event Tenant shall be responsible for Tenant's Share of Direct Expenses which (x) were levied by any governmental authority or by any public utility companies, and (y) Landlord had not previously received an invoice therefor and which are currently due and owing (i.e., costs invoiced for the first time regardless of the date when the work or service relating to this Lease was performed), at any time following the Lease Expiration Date which are attributable to any Expense Year.

**4.4.2 Statement of Estimated Direct Expenses.** In addition, Landlord shall endeavor to give Tenant a yearly expense estimate statement (the "**Estimate Statement**") which shall set forth in general major categories Landlord's reasonable estimate (the "**Estimate**") of what the total amount of Direct Expenses for the then-current Expense Year shall be and the estimated excess (the "**Estimated Excess**") as calculated by comparing the Direct Expenses for such Expense Year, which shall be based upon the Estimate, to the amount of Direct Expenses for the Base Year. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Additional Rent under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Excess theretofore delivered to the extent necessary, provided that Landlord shall not have the right to issue such revisions more frequently than two (2) times during any Expense Year. Thereafter, Tenant shall pay, within thirty (30) days after receipt of the Estimate Statement, a fraction of the Estimated Excess for the then-current Expense Year (reduced by any amounts paid pursuant to the second to last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), subject to the foregoing provisions of this Section 4.4.2, Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Excess set forth in the previous Estimate Statement delivered by Landlord to Tenant. Throughout the Lease Term Landlord shall maintain records with respect to Direct Expenses in accordance with sound real estate management and accounting practices, consistently applied.

#### **4.5 Taxes and Other Charges for Which Tenant Is Directly Responsible.**

**4.5.1** Tenant shall be liable for taxes levied against Tenant's equipment, furniture, fixtures and any other personal property located in or about the Project and shall pay or dispute (to the extent lawful to do so) the same before delinquency. If any such taxes on Tenant's equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord's property or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

**4.5.2** If the improvements in the Premises, whether installed and/or paid for by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which improvements conforming to Landlord's "building



standard” in other space in the Building are assessed, then the Tax Expenses levied against Landlord or the property by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 4.5.1, above.

4.5.3 Notwithstanding any contrary provision herein, Landlord shall have the right to charge Tenant directly, and in such event Tenant shall pay to Landlord, upon demand as Additional Rent any or all of the following: (i) any rent tax or sales tax, gross receipts tax, service tax, transfer tax or value added tax, and/or any other applicable tax on the rent or services herein or otherwise respecting this Lease, (ii) any taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Project, including the Project parking facility and taxes or assessments due to any type of ballot measure, including an initiative adopted by the voters or a local agency, or a state or municipal proposition approved by the voters; and (iii) taxes assessed upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. To the extent that Landlord elects to charge Tenant directly for any of the foregoing, then such items for which Tenant is so charged directly shall not be included in Direct Expenses.

4.5.4 Landlord may charge Tenant the estimated amount of taxes and other charges for which Tenant is directly responsible pursuant to this Section 4.5 on a monthly basis, provided that Landlord shall reconcile the amount actually paid by Tenant with the amount that Tenant should have paid, as part of Landlord’s Statement following the end of each Expense Year.

4.6 **Landlord’s Records.** Upon Tenant’s written request given not more than ninety (90) days after Tenant’s receipt of a Statement for a particular Expense Year, and provided that no Event of Default is then occurring under this Lease, specifically including, but not limited to, the timely payment of Additional Rent (whether or not a component thereof is the subject of the audit contemplated herein), Landlord shall furnish Tenant with such reasonable supporting documentation pertaining to the calculation of the Excess set forth in the Statement as Tenant may reasonably request. Landlord shall provide said documentation pertaining to the relevant Excess to Tenant within sixty (60) days after Tenant’s written request therefor. Within sixty (60) days after receipt of a Statement by Tenant (the “**Audit Period**”), if Tenant disputes the amount of the Excess set forth in the Statement, an independent certified public accountant (which accountant (A) is a member of a nationally or regionally recognized certified public accounting firm which has previous experience in auditing financial operating records of landlords of office buildings, (B) shall not already be providing primary accounting services to Tenant and shall not have provided primary accounting services to Tenant in the past three (3) years, (C) is not working on a contingency fee basis [i.e., Tenant must be billed based on the actual time and materials that are incurred by the certified public accounting firm in the performance of the audit], and (D) shall not currently or in the future be providing accounting and/or lease administration services to another tenant in the Building and/or the Project in connection with a review or audit by such other tenant of similar expense records), designated and paid for by Tenant, may, after reasonable notice to Landlord and at reasonable times, audit Landlord’s records with respect to the Excess set forth in the Statement at Landlord’s corporate offices, provided that (i) no Event of Default is then occurring under this Lease, (ii) Tenant has paid all amounts required to be paid under the applicable Estimate Statement and Statement, and (iii) a copy of the audit agreement between Tenant and its particular certified public accounting firm has been delivered to Landlord prior to the commencement of the audit. In connection with such audit, Tenant and Tenant’s certified public accounting firm must agree in advance to follow Landlord’s reasonable rules and procedures regarding an audit of the aforementioned Landlord records, and shall execute a commercially reasonable confidentiality agreement regarding such audit. Any audit report prepared by Tenant’s certified public accounting firm shall be delivered concurrently to Landlord and Tenant within the Audit Period. Tenant’s failure to audit the amount of the Excess set forth in any Statement within the Audit Period shall be deemed to be Tenant’s approval of such Statement and Tenant, thereafter, waives the right or ability to audit the amounts set forth in such Statement. If after such audit, Tenant still disputes such Excess, an audit to determine the proper amount shall be made, at Tenant’s expense, by an independent certified public accountant (the “**Accountant**”) selected by Landlord and subject to Tenant’s reasonable approval; provided that if such audit by the Accountant proves that the Direct Expenses in the subject Expense Year were overstated by more than five percent (5%), then the cost of the Accountant and the cost of such audit, in an amount not to exceed Five Thousand and 00/100 Dollars (\$5,000.00), shall be paid for by Landlord. Tenant hereby acknowledges that Tenant’s sole right to audit Landlord’s records and to contest the amount of Direct Expenses payable by Tenant shall



be as set forth in this Section 4.6, and Tenant hereby waives any and all other rights pursuant to applicable law to audit such records and/or to contest the amount of Direct Expenses payable by Tenant.

## ARTICLE 5

### USE OF PREMISES

5.1 **Permitted Use.** Tenant shall use the Premises solely for the Permitted Use set forth in Section 7 of the Summary and Tenant shall not use or permit the Premises or the Project to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion. Tenant shall operate its business in the Premises and comply with, and in no event may Tenant's Permitted Use violate, the rules and regulations for the Project promulgated by Landlord from time to time ("**Rules and Regulations**"), the current set of which (as of the Effective Date) is attached to this Lease as **Exhibit D**; provided, however, Landlord shall not enforce, change or modify the Rules and Regulations in a discriminatory manner and Landlord agrees that the Rules and Regulations shall not be unreasonably modified or enforced in a manner which will unreasonably interfere with the normal and customary conduct of Tenant's business. To Landlord's actual knowledge, except for any violations cured or remedied on or before the date of this Lease, if any, Landlord has not received any written notice from any governmental authority of any violation of any Applicable Law applicable to the Premises. "Landlord's actual knowledge" shall be deemed to mean and be limited to the current actual knowledge of John Osmond, Landlord's head of asset management, at the time of execution of this Lease and not any implied, imputed, or constructive knowledge of said individual or of Landlord or any parties related to or comprising Landlord and without any independent investigation or inquiry having been made or any implied duty to investigate or make any inquiries; it being understood and agreed that such individual shall have no personal liability in any manner whatsoever hereunder or otherwise related to the transactions contemplated hereby. In addition, subject to all Applicable Laws, Tenant shall continue to have the right to use the Building's fire stairs to travel between the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) floors of the Building.

5.2 **Prohibited Uses.** The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices of any agency or bureau of the United States or any state or political subdivision thereof; (ii) offices or agencies of any foreign governmental or political subdivision thereof; (iii) offices of any health care professionals or service organization; (iv) schools or other training facilities which are not ancillary to corporate, executive or professional office use; (v) retail or restaurant uses; or (vi) communications firms such as radio and/or television stations. Tenant shall not allow occupancy density for the Premises which is greater than seven (7) persons per each one thousand (1,000) rentable square feet of the Premises. Notwithstanding the foregoing or any other provision of this Lease, Landlord hereby agrees that occupancy of the initial Premises by up to ten (10) persons per each one thousand (1,000) rentable square feet of the Premises for the Permitted Use during "Building Hours" (as that term is defined in Section 6.1.1 below) (with the density in excess of seven (7) persons per each one thousand (1,000) rentable square feet of the Premises being hereafter called the "**Excess Occupancy Density**") shall not constitute a breach by Tenant under the terms of this Section 5.2 so long as such Excess Occupancy Density complies with and is not greater than the density permitted by Applicable Laws and zoning requirements. Notwithstanding the foregoing, Tenant hereby acknowledges and agrees that in no event shall Landlord be obligated to make any changes to the Building Structure or Building Systems (as defined in Article 7) to accommodate Tenant's Excess Occupancy Density and nothing set forth herein shall be construed as entitling Tenant or any Tenant Party to use more parking than the Parking Pass Ratio set forth in Section 9 of the Summary. In addition, any HVAC usage or other utility usage attributable to Tenant's Excess Occupancy Density shall be deemed to be in excess of the Building standard to be provided by Landlord under this Lease and shall instead be at Tenant's sole cost, pursuant to the terms of Section 6.2 below. Furthermore, Landlord shall not be obligated to make any changes to the Base Building or Common Areas to accommodate Tenant's occupancy density. Tenant shall not do or permit anything to be done in or about the Premises which will in any way damage the reputation of the Project or obstruct or interfere with the rights of other tenants or occupants of the Building, or injure or annoy them or use or allow the Premises to be used for any improper, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises.

5.3 **Underlying Documents.** Tenant shall (i) be subject (and this Lease shall be subordinate) to all current or future (recorded and unrecorded) ground leases and master leases, development agreements, easements, licenses, operating agreements, declarations, restrictive covenants, covenants, conditions and restrictions affecting the Building



or the Project (and any portion thereof), reciprocal easement agreements, parking licenses, and any agreements with transit agencies affecting the Building or the Project (all documents described in this item (i) and any additional provisions, exhibits, documents, rules and laws mentioned therein, are, collectively, "Underlying Documents"). (ii) comply with the requirements of the Underlying Documents, (iii) not perform any act or omission that would cause Landlord to be in violation of the Underlying Documents, (iv) be solely responsible for any amounts payable by Landlord resulting from Tenant's failure to comply with this Section 5.3, and (v) within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination of this Lease to any Underlying Documents.

5.4 **Tenant's Dogs.**

5.4.1 **In General.** Subject to the provisions of this Section 5.4 and the Rules and Regulations, Tenant shall be permitted to bring up to a total of five (5) non-aggressive, well behaved, fully-trained, fully-domesticated and fully-vaccinated dogs of no less than one (1) year in age into the Premises; provided that, in no event shall more than three (3) dogs be permitted on any individual floor of the Premises at same time (which dogs are owned by Tenant or an officer or employee of Tenant) ("**Tenant's Dogs**"). Tenant's Dogs shall not include service animals (as defined under Applicable Laws and accompanying guidelines) ("**Service Animals**") and this Section 5.4 shall not be applicable to such Service Animals unless expressly stated hereinbelow. Tenant's Dogs must be on a leash that is no more than four feet (4') in length while in any area of the Project outside of the Premises. In no event shall Tenant be permitted to bring any of Tenant's Dogs into the restrooms of the Project. Within three (3) business days following Tenant's receipt of Landlord's request, Tenant shall provide Landlord with reasonably satisfactory evidence showing that all current vaccinations have been received by Tenant's Dogs. Tenant's Dogs shall not be brought to the Project if such dog is ill or contracts a disease that could potentially threaten the health or wellbeing of any tenant or occupant of the Building (which diseases may include, but shall not be limited to, rabies, leptospirosis and Lyme disease). While in the Building, Tenant's Dogs must be taken directly to/from the Premises and Tenant shall use the Project's freight elevators to bring Tenant's Dogs to/from the Premises. Tenant shall not permit any objectionable dog related odors to emanate from the Premises, and in no event shall Tenant's Dogs be at the Project overnight. All bodily waste generated by Tenant's Dogs in or about the Project shall be promptly removed and disposed of in trash receptacles designated by Landlord, and any areas of the Project affected by such waste shall be cleaned and otherwise sanitized by Tenant. No less than one (1) time per calendar month during which any of Tenant's Dogs are at the Premises, Tenant shall, at Tenant's sole cost, clean all carpeted floor areas located within any portions of the Premises where Tenant's Dogs have been located or have been allowed access. No Tenant's Dog shall be permitted to enter the Project if such Tenant's Dog previously exhibited dangerously aggressive behavior. Notwithstanding the foregoing, Landlord shall have the right, at any time, to prevent particular dogs from entering or accessing the Premises if such dogs are in violation of the terms of this Section 5.4, have previously been in violation of one or more of the terms of this Section 5.4, or Landlord has received a complaint from any tenant or occupant regarding damage, disruption or nuisance caused by such dog in the Building or the Project, which complaint is, in Landlord's reasonable business judgment, legitimate and not intended solely to harass or frustrate Tenant's use and occupancy of the Premises or Tenant's right to bring Tenant's Dogs into the Premises in accordance with this Section 5.4.

5.4.2 **Costs and Expenses.** Tenant shall pay to Landlord, within thirty (30) days after demand, all costs reasonably incurred by Landlord in connection with the presence of Tenant's Dogs in the Building, Premises or Project, including, but not limited to, janitorial, waste disposal, landscaping, signage, repair, and legal costs and expenses. In the event Landlord receives any verbal or written complaints from any other tenant or occupant of the Project in connection with health-related issues (e.g., allergies) related to the presence of Tenant's Dogs in the Premises, the Building or the Project, Landlord and Tenant shall promptly meet and mutually confer, in good faith, to determine appropriate mitigation measures to eliminate the causes of such complaints (which mitigation measures may include, without limitation, additional and/or different air filters to be installed in the HVAC system for the Premises, or elsewhere in the Building), and Tenant shall cause such measures to be taken promptly at its sole cost or expense.

5.4.3 **Indemnity.** Tenant's indemnities under Section 10.1 below shall apply to any loss, cost, damage, expense, liability, or claim relating to any of Tenant's Dogs.



5.4.4 **Rights Personal to Original Tenant.** The right to bring Tenant's Dogs into the Premises pursuant to this Section 5.4 is personal to the Original Tenant and any Permitted Transferee. If Tenant assigns the Lease or sublets all or any portion of the Premises, then, as to the entire Premises, upon such assignment, or, as to the portion of the Premises sublet, upon such subletting and until the expiration of such sublease, the right to bring Tenant's Dogs into such portion of the Premises shall automatically terminate and be of no further force or effect.

## ARTICLE 6

### SERVICES AND UTILITIES

6.1 **Standard Tenant Services.** Landlord shall provide the following services on all days (unless otherwise stated below) during the Lease Term.

6.1.1 **HVAC.** Subject to reasonable changes implemented by Landlord and all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide heating, ventilation and air conditioning ("HVAC") when necessary for normal comfort for normal office use in the Premises from 8:00 A.M. to 6:00 P.M. Monday through Friday (collectively, the "**Building Hours**"), except for the date of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and, at Landlord's discretion, other locally or nationally recognized holidays (collectively, the "**Holidays**"). If Tenant desires to use HVAC during hours other than Building Hours, Tenant shall give Landlord such prior notice, if any, as Landlord shall from time to time establish as appropriate, of Tenant's desired use in order to supply such HVAC, and Landlord shall supply such HVAC to Tenant at such hourly cost to Tenant (which shall be treated as Additional Rent) as Landlord shall from time to time establish. As of the date of this Lease, the prevailing rates for HVAC service outside of Building Hours is \$160.00 per hour, per suite (subject to change from time to time in Landlord's sole discretion), which service shall be for at least two (2) hours and thereafter is provided in one (1) hour increments

6.1.2 **Electricity.** Landlord shall provide adequate electrical wiring and facilities and power for normal general office use as determined by Landlord. Notwithstanding any provision to the contrary contained in this Lease, Tenant shall pay directly to Landlord pursuant to the separate electrical submeters, the cost of all electricity services provided to and/or consumed in the Premises (including normal and excess consumption and including the cost of electricity to operate the HVAC air handlers), which electricity shall be separately submetered as described above (or otherwise equitably allocated and directly charged by Landlord to Tenant). Tenant shall pay such electricity cost within ten (10) days after demand and as Additional Rent under this Lease (and not as part of the Operating Expenses). Landlord shall designate the utility provider from time to time.

6.1.3 **Lighting.** As part of Operating Expenses, Landlord shall replace lamps, starters and ballasts for Building standard lighting fixtures within the Premises. In addition, Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises.

6.1.4 **Water.** Landlord shall provide city water from the regular Building outlets for drinking, lavatory and toilet purposes in the Building Common Areas.

6.1.5 **Janitorial.** Landlord shall provide janitorial services to the Common Areas of the Building (but not to the Premises), except the date of observation of the Holidays, in and about the Premises and window washing services in a manner consistent with other Comparable Buildings.

6.1.6 **Elevators.** Landlord shall provide nonexclusive, non-attended automatic passenger elevator service during the Building Hours, and shall have at least one elevator available at all other times. Landlord shall provide nonexclusive freight elevator service subject to scheduling by Landlord.

6.1.7 **Access Control.** Landlord shall provide reasonable access control services for the Building, including a lobby attendant, in a manner materially consistent with other Comparable Buildings. Notwithstanding the foregoing, Landlord shall in no event be liable for personal injury or property damage for any error with regard to the admission to or exclusion from the Building of any person.



Tenant shall cooperate fully with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the HVAC, electrical, mechanical and plumbing systems.

6.2 **Overstandard Tenant Use.** Tenant shall not, without Landlord's prior written consent, use heat-generating machines, machines other than normal fractional horsepower office machines, or equipment or lighting other than Building standard lights in the Premises, which may affect the temperature otherwise maintained by the air conditioning system or increase the water normally furnished for the Premises by Landlord pursuant to the terms of Section 6.1 of this Lease. If such consent is given, Landlord shall have the right to require installation of supplementary air conditioning units or other facilities in the Premises, including supplementary or additional metering devices, and the cost thereof, including the cost of installation, operation and maintenance, increased wear and tear on existing equipment and other similar charges, shall be paid by Tenant to Landlord upon billing by Landlord. If Tenant uses water, electricity, heat or air conditioning in excess of that supplied by Landlord pursuant to Section 6.1 of this Lease (including, without limitation, as a result of any Excess Occupancy Density), Tenant shall pay to Landlord, upon billing, the cost of such excess consumption, the cost of the installation, operation, and maintenance of equipment which is installed in order to supply such excess consumption, and the cost of the increased wear and tear on existing equipment caused by such excess consumption; and Landlord may install devices to separately meter any increased use and in such event Tenant shall pay the increased cost directly to Landlord, including the cost of such additional metering devices. Tenant's use of electricity shall never exceed the capacity of the feeders to the Project or the risers or wiring installation, and subject to the terms of Section 29.32, below, Tenant shall not install or use or permit the installation or use of any computer or electronic data processing equipment in the Premises, without the prior written consent of Landlord.

6.3 **Interruption of Use.** Subject to Section 6.4, Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Project after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause beyond Landlord's reasonable control; and such failures or delays or diminution shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease, except to the extent provided below in Section 6.4. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Article 6.

6.4 **Abatement Event.** If (i) Landlord fails to perform the obligations required of Landlord under the TCCs of this Lease, (ii) such failure causes all or a portion of the Premises to be untenable and unusable by Tenant, and (iii) such failure relates to (A) the nonfunctioning of the heat, ventilation, and air conditioning system in the Premises, the electricity in the Premises, the nonfunctioning of the elevator service to the Premises, or (B) a failure to provide access to the Premises, Tenant shall give Landlord notice (the "Initial Notice"), specifying such failure to perform by Landlord (the "Abatement Event"). If Landlord has not cured such Abatement Event within five (5) business days after the receipt of the Initial Notice, Tenant may deliver an additional notice to Landlord (the "Additional Notice"), specifying such Abatement Event and Tenant's intention to abate the payment of Rent under this Lease. If Landlord does not cure such Abatement Event within five (5) business days of receipt of the Additional Notice, Tenant may, upon written notice to Landlord, immediately abate Rent payable under this Lease for that portion of the Premises rendered untenable and not used by Tenant, for the period beginning on the date five (5) business days after the Initial Notice to the earlier of the date Landlord cures such Abatement Event or the date Tenant recommences the use of such portion of the Premises. Such right to abate Rent shall be Tenant's sole and exclusive remedy at law or in equity for an Abatement Event. Except as provided in this Section 6.4, nothing contained herein shall be interpreted to mean that Tenant is excused from paying Rent due hereunder.

6.5 **Janitorial Service to the Premises.** All cleaning and janitorial services for the Premises, including regular removal of trash and debris and the washing of all windows in the Premises, all in a manner consistent with



Landlord's commercially reasonable janitorial standards established for the Building, shall be performed and obtained at Tenant's sole cost and expense exclusively by or through Landlord's janitorial contractors, or any other janitorial contractor selected by Tenant that is a union contractor and a Class A level provider. Prior to the Lease Commencement Date, Tenant shall contract directly with Landlord's janitorial contractors for the Project and the janitorial contract for the same must be approved in writing by Landlord in advance. Landlord shall have the right, from time to time, to change its designated janitorial services provider for the Building, in which event Tenant shall terminate its contract with Landlord's previously designated janitorial services provider and enter into a contract with Landlord's newly designated janitorial services provider. Landlord shall have the right to inspect the Premises for purposes of confirming that Tenant is cleaning the Premises as required by this Section 6.5, and to require Tenant to provide additional cleaning, if necessary. In the event Tenant shall fail to provide any of the services described in this Section 6.5 within five (5) business days after notice from Landlord, which notice shall not be required in the event of an emergency, then Landlord shall have the right to provide such services and any charge or cost incurred by Landlord in connection therewith shall be deemed Additional Rent due and payable by Tenant upon receipt by Tenant of a written statement of cost from Landlord. Failure of Tenant to comply with any one or more of the foregoing provisions shall be deemed to be a default under this Lease.

6.6 **Security Systems.** Tenant shall continue to have the right to utilize, repair and maintain its existing security system, which includes card-key entry and may include a remotely monitored camera security system, with cameras located in and directed at portions of the Premises where Tenant is the only Tenant on such floor ("**Tenant's Security System**"). Any portion of Tenant's Security System located outside of the Premises shall be deemed to be included in the definition of Tenant's Off-Premises Equipment (as defined in Section 7.1 below). If Tenant desires to install a new Tenant's Security System, the same shall be subject to Landlord's prior review and approval (not to be unreasonably withheld, conditioned or delayed), and the installation thereof shall be deemed an Alteration and shall be performed pursuant to Article 8 of this Lease, below. In addition, Tenant shall coordinate the selection, installation and operation of Tenant's Security System (and shall coordinate the selection, installation and operation of any new Tenant's Security System) with Landlord in order to ensure that Tenant's Security System is compatible with Landlord's current or future Project security systems and equipment, and to the extent that any new Tenant's Security System that Tenant desires to install is not compatible with Landlord's Project systems and equipment, Tenant shall not be entitled to install and/or operate such new Tenant's Security System. Tenant shall be solely responsible, at Tenant's sole cost and expense, for the installation, monitoring, operation and removal of Tenant's Security System. Tenant shall furnish Landlord with a copy of all key codes or access cards and Tenant shall ensure that Landlord shall have access to the Premises and the Building at all times. In no event shall Landlord be liable for, and Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against any Losses arising from, such system or the malfunctioning thereof in accordance with Tenant's indemnity contained in Section 10.1 hereof.

## ARTICLE 7

### REPAIRS

7.1 **Tenant's Repair and Maintenance Obligations.** Tenant shall, at Tenant's own expense, maintain in good condition and operating order and keep in good repair and condition throughout the Lease Term the following (collectively, "**Tenant's Repair Obligations**"): (i) the Premises, including all improvements, fixtures, equipment, interior window coverings, and furnishings therein (which obligation of Tenant shall include, without limitation, the prompt replacement or repair, as reasonably required, of all damaged, broken, or worn fixtures and appurtenances, which work shall be performed by Tenant under the supervision and subject to the prior approval of Landlord), (ii) any personal property or equipment (including, without limitation, furniture, business and trade fixtures, equipment, free-standing cabinet work, movable partitions, servers, telephones, and merchandise) installed by Tenant within the Premises (collectively, "**Tenant's Property**"), (iii) any equipment installed by Tenant at the Project and located outside of the Premises, including, without limitation, any rooftop equipment, supplemental HVAC equipment (if located outside of the Premises), generators (if located outside of the Premises), and electric vehicle charging stations (collectively, "**Tenant's Off-Premises Equipment**"), which Tenant's Off-Premises Equipment may only be installed by Tenant with the prior written consent of Landlord (in Landlord's sole and absolute discretion, except to the extent otherwise expressly permitted elsewhere in this Lease), and (iv) all areas, improvements and systems exclusively serving the Premises, including any communications or computer wires and cables (collectively, the "**Cabling**") and



applicable branch lines of the plumbing, electrical and other Building Systems (but excluding those portions of the Building Systems situated behind the demising and other walls located on the perimeter of the Premises, and all items situated above the ceiling including without limitation the ceiling grid and fixtures, all of which shall be Landlord's responsibility to maintain as described below). The performance of Tenant's Repair Obligations shall comply with the terms of Article 8 below.

7.2 **Landlord's Repair and Maintenance Obligations.** Landlord shall maintain in good condition and operating order and keep in good repair and condition throughout the Lease Term the following (collectively, "**Landlord's Repair Obligations**"): (i) the structural portions of the Building, including the foundation, floor/ceiling slabs, roof structure, roof membrane, curtain wall, exterior glass and mullions, columns, beams, shafts (including elevator shafts), stairs, stairwells, elevator cab, Building mechanical, electrical and telephone closets (collectively, "**Building Structure**"), (ii) the mechanical, electrical, life safety, plumbing, sprinkler systems and HVAC systems that serve the Building generally, as opposed to Tenant or another tenant exclusively (collectively, the "**Building Systems**") including without limitation those portions of the Building Systems situated behind the demising and other walls located on the perimeter of the Premises, and all items situated above the ceiling including without limitation the ceiling grid and fixtures, and (iii) the Common Areas, which shall include restrooms located on multi-tenant floors of the Building. The "**Base Building**" shall mean the Building Structure and the Building Systems. Notwithstanding anything in this Lease to the contrary, if any repairs that are Landlord's Repair Obligations are required due to Tenant's use of the Premises for other than normal and customary business office operations or required due to Tenant's construction of Alterations, then Landlord shall make such repairs and replacements, at Tenant's sole cost, including a percentage of the cost thereof (to be uniformly established for the Building and/or the Project) sufficient to reimburse Landlord for all overhead, general conditions, fees and other reasonable costs or expenses arising from Landlord's involvement with such repairs and replacements forthwith upon being billed for same. In the event that the Premises has an "open ceiling plan", then Landlord and third parties leasing or otherwise using/managing or servicing space on the floor immediately above the Premises shall have the right to install, maintain, repair and replace mechanical, electrical and plumbing fixtures, devices, piping, ductwork and all other improvements through the floor above the Premises (which may penetrate through the ceiling of the Premises and be visible within the Premises during the course of construction and upon completion thereof), as Landlord may determine in Landlord's sole and absolute discretion and with no approval rights being afforded to Tenant with respect thereto. Notwithstanding Tenant's occupancy of the Premises during the performance of any of Landlord's Repair Obligations, the performance of Landlord's Repair Obligations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent. Tenant shall promptly and diligently cooperate with Landlord and any of the third parties performing Landlord's Repair Obligations in the Premises in order to facilitate the performance of such work in an efficient and timely manner. Landlord's entry into the Premises to perform any repairs or maintenance hereunder shall be subject to Article 27 below. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

## ARTICLE 8

### ADDITIONS AND ALTERATIONS

8.1 **Landlord's Consent to Alterations.** Tenant may not make any repairs, improvements, alterations, additions or changes to the Premises or any other portion of the Project, or install any Tenant's Off-Premises Equipment (collectively, the "**Alterations**") without the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than fifteen (15) business days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which constitutes a Design Problem (without limitation as to any other reasonable grounds for Landlord to withhold its consent to any particular Alterations). A "**Design Problem**" is defined as, and will be deemed to exist if such Alterations may (i) affect the exterior appearance of the Building; (ii) affect the Building Structure or adversely affect the Building Systems; (iii) fail to comply with Applicable Laws or applicable building codes ("**Code**") or would cause any other portion of the Project to fail to comply with Applicable Laws or Code, (iv) be in conflict with Landlord's Sustainability and Wellness Requirements (including, without limitation, by jeopardizing any Sustainability and Wellness Certification), (v) vitiate or otherwise negatively affect any warranty, guaranty, or insurance maintained by Landlord, (vi) materially increase Landlord's Repair Obligations, (vii) be



unusually difficult or expensive to remove, (viii) interfere with any other tenant or occupant of the Project, (ix) affect the certificate of occupancy or its legal equivalent for the Project or any portion thereof, (x) fail to adhere to Landlord's Building standard requirements for the Project, or (xi) impact any portion of the Project outside of the interior of the Premises (which shall include, without limitation, any Tenant's Off-Premises Equipment). Notwithstanding the foregoing, Tenant shall be permitted to make Alterations following ten (10) business days' notice to Landlord, but without Landlord's prior consent, to the extent that such Alterations do not (A) adversely affect the systems and equipment of the Building, exterior appearance of the Building, or structural aspects of the Building, (B) adversely affect the value of the Premises or Building, (C) require a building or construction permit, or (D) cost more than Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) for a particular job of work (the "Cosmetic Alterations"). Removal requirements for Cosmetic Alterations are set forth in Section 8.5 below. In addition, notwithstanding anything to the contrary set forth above in this Section 8.1 or elsewhere in this Lease, Tenant shall have the right, subject to the terms of this Section 8.1, to install interconnecting stairs between the second (2nd) and third (3rd) floors of the Building, which work would include making floor cores and other openings in the floors (collectively, "Stairwell Installation Work") subject to the following terms and conditions: (x) Tenant shall be required to obtain the prior written consent of Landlord to the Stairwell Installation Work in accordance with the foregoing provisions of this Section 8.2; (y) the Stairwell Installation Work can only be deemed to be a Design Problem under clauses (ii), (iii), (v), (vi) or (ix) of this Section 8.2, but only if and to the extent the criteria described in such clauses is applicable; and (z) prior to the expiration or sooner termination of the Lease Term, Tenant, at its sole cost and expense, shall remove the Stairwell Installation Work and restore the systems and premises affected by the Stairwell Installation Work to substantially the same condition as existed prior to the performance of the Stairwell Installation Work, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord hereunder excepted, in a manner reasonably approved by Landlord and in compliance with all Applicable Laws and all Codes.

8.2 **Manner of Construction.** Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors reasonably approved by Landlord, and any removal and/or restoration obligations required to be performed pursuant to the TCCs of Section 8.5 of this Lease. If Landlord shall give its consent, the consent shall be deemed conditioned upon Tenant acquiring a permit to do the work from appropriate governmental agencies, the furnishing of a copy of such permit to Landlord prior to the commencement of the work, and the compliance by Tenant with all conditions of said permit in a prompt and expeditious manner. If such Alterations will involve the use of or disturb hazardous materials or substances existing in the Premises, Tenant shall notify Landlord prior to performing such Alterations and comply with Landlord's rules and regulations concerning such hazardous materials or substances. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county, local or municipal laws, ordinances, rules and regulations and pursuant to a valid building permit (to the extent a building permit is required due to the nature of the Alterations being performed), issued by the city in which the Building is located (or other applicable governmental authority), all in conformance with Landlord's construction rules and regulations; provided, however, that prior to commencing to construct any Alteration, Tenant shall meet with Landlord to discuss Landlord's design parameters and code compliance issues. In the event Tenant performs any Alterations in the Premises which require or give rise to governmentally required changes to the "Base Building," as that term is defined below, then Landlord shall, at Tenant's expense, make such changes to the Base Building. The "Base Building" shall include the structural portions of the Building, and the public restrooms, elevators, exit stairwells and the systems and equipment located in the internal core of the Building on the floor or floors on which the Premises is located. In performing the work of any such Alterations, Tenant shall have the work performed in such manner so as not to obstruct access to the Project or any portion thereof, by any other tenant of the Project, and so as not to obstruct the business of Landlord or other tenants in the Project. Tenant shall retain any union trades to the extent designated by Landlord. Further, Tenant shall not use (and upon notice from Landlord shall cease using) contractors, services, workmen, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas. In addition to Tenant's obligations under Article 9 of this Lease, upon completion of any Alterations, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the City and County of San Francisco in accordance with Section 8182 of the Civil Code of the State of California or any successor statute, and as a condition precedent to the enforceability and validity of Landlord's consent, Tenant shall deliver to the management office for the Project a reproducible copy of the "as built" and CAD drawings of the Alterations, to the extent applicable, as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.



8.3 **Payment for Alterations.** With respect to payments to be made to Tenant's contractors for any Alterations, Tenant shall (i) comply with Landlord's requirements for final lien releases and waivers in connection with Tenant's payment for work to contractors, and (ii) sign Landlord's standard contractor's rules and regulations. In addition, in connection with all Alterations, Tenant shall pay Landlord an oversight fee equal to three percent (3%) of the hard costs of the work (provided that such oversight fee shall not be payable with respect to any Cosmetic Alterations) and reimburse Landlord for Landlord's reasonable, actual, out-of-pocket costs and expenses actually incurred in connection with Landlord's review of such work.

8.4 **Construction Insurance.** In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant carries "Builder's Risk" insurance in an amount reasonably approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may reasonably require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Landlord may, in its reasonable discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of such Alterations and naming Landlord as a co-obligee; provided, however, that Landlord shall only be entitled to require the Original Tenant to provide to Landlord a lien and completion bond or other such security in connection with any Alterations in the event that following Landlord's evaluation of Tenant's then-current financial condition and performance history, Landlord determines in its good faith, prudent business judgment that the same is reasonably and prudently required.

8.5 **Landlord's Property.** Landlord and Tenant hereby acknowledge and agree that all Alterations, improvements, fixtures, equipment and/or appurtenances which may be installed or placed in or about the Premises (excluding Tenant's removable trade fixtures, furniture or non-affixed office equipment), from time to time, shall be at the sole cost of Tenant and shall be and become part of the Premises and the property of Landlord. Furthermore, Landlord may, by written notice to Tenant at least sixty (60) days prior to the end of the Lease Term, or given following any earlier termination of this Lease, require Tenant, at Tenant's expense, to remove any Alterations or improvements in the Premises installed by Tenant during the Lease Term, and to repair any damage to the Premises and Building caused by such removal and return the affected portion of the Premises to the condition the Premises was in as of the Lease Commencement Date, subject to reasonable wear and tear; provided, however, if, in connection with its notice to Landlord with respect to any such Alterations or Cosmetic Alterations, (x) Tenant requests Landlord's decision with regard to the removal of such Alterations or Cosmetic Alterations, and (y) Landlord thereafter agrees in writing to waive the removal requirement with regard to such Alterations or Cosmetic Alterations, then Tenant shall not be required to so remove such Alterations or Cosmetic Alterations; provided further, however, that if Tenant requests such a determination from Landlord and Landlord, within ten (10) business days following Landlord's receipt of such request from Tenant with respect to Alterations or Cosmetic Alterations, fails to address the removal requirement with regard to such Alterations or Cosmetic Alterations, Landlord shall be deemed to have required the removal requirement with regard to such Alterations or Cosmetic Alterations. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Alterations or improvements in the Premises, and/or to return the affected portion of the Premises to a building standard improved condition as determined by Landlord, then at Landlord's option, either (A) Tenant shall be deemed to be holding over in the Premises and Rent shall continue to accrue in accordance with the terms of Article 16, below, until such work shall be completed, and/or (B) Landlord may do so and may charge the cost thereof to Tenant. Tenant hereby protects, defends, indemnifies and holds Landlord harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises, which obligations of Tenant shall survive the expiration or earlier termination of this Lease. For the avoidance of doubt, Tenant shall not be required to remove any of the alterations or improvements situated in the Premises as of the Lease Commencement Date.

## ARTICLE 9

### COVENANT AGAINST LIENS

Tenant shall keep the Project and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify



and hold Landlord harmless from and against any Losses (as defined in Section 10.1 below) arising out of same or in connection therewith. Tenant shall give Landlord notice at least twenty (20) days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under applicable laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such lien or encumbrance by bond or otherwise within five (5) days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof. The amount so paid shall be deemed Additional Rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord under this Lease. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord's title to the Building or Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract. Any claim to a lien or encumbrance upon the Building or Premises arising in connection with any such work or respecting the Premises not performed by or at the request of Landlord shall be null and void, or at Landlord's option shall attach only against Tenant's interest in the Premises and shall in all respects be subordinate to Landlord's title to the Project, Building and Premises.

## ARTICLE 10

### INDEMNIFICATION AND INSURANCE

10.1 **Indemnification and Waiver.** Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause whatsoever and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors (individually, a "**Landlord Party**" and collectively, "**Landlord Parties**") shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from and against any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) (collectively, "**Losses**") incurred in connection with or arising from: (a) any causes in, on or about the Premises; (b) the use or occupancy of the Premises by Tenant or any person claiming under Tenant; (c) any activity, work, or thing done, or permitted or suffered by Tenant in or about the Premises; (d) any acts, omission, or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees, or visitors of Tenant or any such person, in, on or about the Project (collectively, "**Tenant Parties**"); (e) any breach, violation, or non-performance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this Lease or any law, ordinance, or governmental requirement of any kind; (f) any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, visitors, or any other person entering upon the Premises under the express or implied invitation of Tenant; (g) the placement of any Tenant's Property or Tenant's Off-Premises Equipment; or (h) the use of the Roof Decks (as defined in Section 29.46) by Tenant or any Tenant Parties. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees. Further, Tenant's agreement to indemnify Landlord pursuant to this Section 10.1 is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease, to the extent such policies cover the matters subject to Tenant's indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. The provisions of this Section 10.1 shall survive the expiration or sooner termination of this Lease with respect to any Losses arising in connection with any event occurring prior to such expiration or termination.

10.2 **Landlord's Insurance.** Landlord shall maintain insurance against loss or damage with respect to the portions of the Project constituting Landlord's Repair Obligations (collectively, "**Landlord's Insured Property**") on a Special Form or equivalent type insurance form, with customary exceptions, subject to such deductibles and self-insured retentions as Landlord may determine, in an amount equal to at least the replacement value of Landlord's Insured Property. Such insurance shall be maintained with an insurance company selected by Landlord. Payment for Losses thereunder shall be made solely to Landlord. Landlord may maintain such additional insurance with respect to the Project, including, without limitation, earthquake insurance, terrorism insurance, flood insurance, liability insurance and/or rent insurance, as Landlord may in its sole discretion elect. Landlord may also maintain such other



insurance as may from time to time be required by a Mortgagee (as defined in Article 18 below). Any or all of Landlord’s insurance may be provided by blanket coverage maintained by Landlord or any affiliate of Landlord under its insurance program for its portfolio of properties, or by Landlord or any affiliate of Landlord under a program of self-insurance. Tenant shall, at Tenant’s expense, comply with Landlord’s insurance company requirements pertaining to the use of the Premises, to the extent that Tenant has been notified in writing of such requirements. If Tenant’s conduct or use (other than Building standard general office use) of the Premises causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant’s expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

10.3 **Tenant’s Insurance.** Throughout the Lease Term, Tenant shall maintain the following coverages in the following amounts. The required evidence of coverage must be delivered to Landlord on or before the date required under Section 10.4(I) sub-sections (x) and (y), or Section 10.4(II) below (as applicable). Such policies shall be for a term of at least one (1) year, or the length of the remaining term of this Lease, whichever is less.

10.3.1 Commercial General Liability Insurance, including Broad Form contractual liability covering the insured against claims of bodily injury, personal injury and property damage (including loss of use thereof) based upon or arising out of Tenant’s operations, occupancy or maintenance of the Project and all areas appurtenant thereto. Such insurance shall be written on an “occurrence” basis. Landlord and any other party the Landlord so specifies in writing to Tenant that has a material financial interest in the Project, including Landlord’s managing agent, ground lessor and/or lender, if any, shall be named as additional insureds as their interests may appear using Insurance Service Organization’s form CG2011 or a comparable form approved by Landlord. Tenant shall provide an endorsement or policy excerpt showing that Tenant’s coverage is primary and any insurance carried by Landlord shall be excess and non-contributing. The coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations. This policy shall include coverage for all Losses assumed under this Lease as an insured contract for the performance of all of Tenant’s indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. Limits of liability insurance shall not be less than the following; provided, however, such limits may be achieved through the use of an Umbrella/Excess Policy:

Bodily Injury and Property Damage Liability	\$5,000,000.00 each occurrence
 Personal Injury and Advertising Liability	 \$5,000,000.00 each occurrence
 Tenant Legal Liability/Damage to Rented Premises Liability	 \$5,000,000.00

10.3.2 Property Insurance covering (i) Tenant’s Property and Tenant’s Off- Premises Equipment, (ii) any improvements which exist in the Premises as of the Lease Commencement Date (excluding the Base Building and Landlord’s Insured Property) (the “**Original Improvements**”), and (iii) all Alterations performed in the Premises (items (i), (ii) and (iii) are collectively, “**Tenant’s Insured Property**”). Such insurance shall be written on a Special Form basis, for the full replacement cost value (subject to reasonable deductible amounts), without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for (a) all perils included in the CP 10 30 04 02 Coverage Special Form, and (b) water damage from any cause whatsoever, including, but not limited to, sprinkler leakage, bursting, leaking or stoppage of any pipes, explosion, and backup or overflow from sewers or drains. Tenant shall use the proceeds from any such insurance for the replacement of Tenant’s Insured Property.

10.3.2.1 **Increase in Project’s Property Insurance.** Tenant shall pay for any increase in the premiums for the property insurance of the Project if said increase is caused by Tenant’s acts, omissions, use or occupancy of the Premises; provided that Landlord shall have delivered to Tenant reasonable supporting



documentation evidencing that such increased premium results from such acts, omissions, use or occupancy of the Premises by Tenant.

10.3.2.2 **Property Damage.** Tenant shall use the proceeds from any such insurance for the replacement of personal property, trade fixtures, Original Improvements and Alterations.

10.3.2.3 **No Representation of Adequate Coverage.** Landlord makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Tenant's property, business operations or obligations under this Lease.

10.3.2.4 **Property Insurance Subrogation.** Landlord and Tenant intend that their respective property loss risks shall be borne by insurance carriers to the extent above provided (and, in the case of Tenant, by an insurance carrier satisfying the requirements of Section 10.4(i) below), and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. The parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers. Landlord and Tenant hereby represent and warrant that their respective "all risk" property insurance policies include a waiver of (i) subrogation by the insurers, and (ii) all rights based upon an assignment from its insured, against Landlord and/or any of the Landlord Parties or Tenant and/or any of the Tenant Parties (as the case may be) in connection with any property loss risk thereby insured against. Tenant will cause all subtenants and licensees of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this Section 10.3.2.4 and to obtain such waiver of subrogation rights endorsements. If either party hereto fails to maintain the waivers set forth in items (i) and (ii) above, the party not maintaining the requisite waivers shall indemnify, defend, protect, and hold harmless the other party for, from and against any and all Losses arising out of, resulting from, or relating to, such failure.

10.3.3 Business Income Interruption for six (6) months plus Extra Expense insurance in such amounts as will reimburse Tenant for actual direct or indirect loss of earnings attributable to the risks outlined in Section 10.3.2 above.

10.3.4 Worker's Compensation or other similar insurance pursuant to all applicable state and local statutes and regulations, and Employer's Liability with minimum limits of not less than \$1,000,000 each accident/employee/disease.

10.3.5 Commercial Automobile Liability Insurance covering all Owned (if any), Hired, or Non-owned vehicles with limits not less than \$1,000,000 combined single limit for bodily injury and property damage.

10.4 **Form of Policies.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) be issued by an insurance company having an AM Best rating of not less than A-VIII (or to the extent AM Best ratings are no longer available, then a similar rating from another comparable rating agency), or which is otherwise acceptable to Landlord and licensed to do business in the State of California, (ii) be in form and content reasonably acceptable to Landlord and complying with the requirements of Section 10.3 (including, Sections 10.3.1 through 10.3.5), (iii) Tenant shall not do or permit to be done anything which invalidates the required insurance policies, and (iv) provide that said insurance shall not be canceled or coverage changed unless thirty (30) days' prior written notice shall have been given to Landlord and any mortgagee of Landlord, the identity of whom has been provided to Tenant in writing. To the extent not already provided under the Existing Sublease, Tenant shall deliver certificates of said policies and applicable endorsements which meet the requirements of this Article 10 to Landlord on or before (I) the earlier to occur of: (x) the Lease Commencement Date, and (y) the date Tenant and/or its employees, contractors and/or agents first enter the Premises for occupancy, construction of improvements, alterations, or any other move-in activities, and (II) five (5) business days after the renewal of such policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates and applicable endorsements, Landlord may, at its option, after written notice to Tenant and Tenant's failure to obtain such insurance within five (5) days thereafter, procure such policies for the account of Tenant and the sole benefit of Landlord, and the cost thereof shall be paid to Landlord after delivery to Tenant of bills therefor.

10.5 **Additional Insurance Obligations.** Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord, but only to the extent that either (a) tenants occupying space that is comparable in size and quality to the Premises in Comparable Buildings are being required by their respective landlords to carry such increased amounts of insurance or other types of insurance coverage, or (b) such increased amounts of insurance or other types of insurance coverage are required by Landlord's mortgagee.

10.6 **Third-Party Contractors.** Tenant shall obtain and deliver to Landlord, Third Party Contractor's certificates of insurance and applicable endorsements at least seven (7) business days prior to the commencement of work in or about the Premises by any vendor or any other third-party contractor who enter the Premises or Project to carry out work and/or perform services therein (including without limitation contractors performing any Alterations, and vendors delivering products or supplies to the Premises) (collectively, a "**Third Party Contractor**"). All such insurance shall (a) name Landlord as an additional insured under such party's liability policies as required by Section 10.3.1 above and this Section 10.6, (b) provide a waiver of subrogation in favor of Landlord under such Third Party Contractor's commercial general liability insurance, (c) be primary and any insurance carried by Landlord shall be excess and non-contributing, and (d) comply with Landlord's minimum insurance requirements.

## ARTICLE 11

### DAMAGE AND DESTRUCTION

11.1 **Repair of Damage from Casualty.** If the Project (or any portion thereof) shall be damaged by a fire or any other casualty (collectively, a "**Casualty**"), (i) Landlord shall promptly and diligently restore Landlord's Insured Property to substantially the same condition as existing prior to the Casualty, except for modifications required by Applicable Laws or the Underlying Documents, or any other modifications deemed desirable by Landlord, and (ii) except as set forth below, Tenant shall promptly and diligently restore Tenant's Insured Property to substantially the same condition as existing prior to the Casualty, except for modifications required by Applicable Laws or the Underlying Documents, or any other modifications deemed desirable by Tenant and approved by Landlord pursuant to Article 8. Notwithstanding the foregoing, Landlord shall have the right, upon notice (the "**Landlord Repair Notice**") to Tenant from Landlord within sixty (60) days following the date the Casualty becomes known to Landlord, to promptly and diligently restore the Original Improvements and Alterations, and, in such event Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 10.3 of this Lease for the Original Improvements and Alterations; provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, as assigned by Tenant, the cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repair of the damage. All work performed by Tenant pursuant to this Section 11.1 shall be performed in accordance with Article 8 of this Lease. At any time, from time to time, after the date occurring sixty (60) days after the date of the damage, Tenant may request that Landlord inform Tenant of Landlord's reasonable opinion of the date of completion of the repairs and Landlord shall respond to such request within five (5) business days ("**Landlord's Repair Estimate Notice**"). Notwithstanding any contrary provision of this Article 11, the parties hereby agree as follows: (a) the closure of the Project, the Building, the Common Areas, or any part thereof to protect public health shall not constitute a Casualty for purposes of this Lease, (b) Casualty covered by this Article 11 shall require that the physical or structural integrity of the Premises, the Project, the Building, or the Common Areas is degraded as a direct result of such occurrence, and (c) a Casualty under this Article 11 shall not be deemed to occur merely because Tenant is unable to productively use the Premises in the event that the physical and structural integrity of the Premises is undamaged.

11.2 **Casualty Rent Abatement.** If (i) the Premises or portions of the Common Area necessary for the conduct of Tenant's business are damaged by Casualty, (ii) such Casualty causes all or a material portion of the Premises to be untenable and unusable by Tenant and Tenant actually ceases to use all or such material portion of the Premises for more than five (5) business days, (iii) the Casualty is not the result of the willful misconduct and/or gross negligence of Tenant and/or other Tenant Parties, and (iv) no Event of Default then exists (items (i) through (iv) are, collectively, "**Casualty Conditions**"), Tenant may, upon written notice to Landlord, immediately abate Base Rent



and Tenant's Share of Direct Expenses payable under this Lease for that portion of the Premises rendered untenable and not actually used by Tenant due to the Casualty, for the period beginning on the date of the Casualty through (a) if Landlord delivered the Landlord Repair Notice, the date Landlord substantially completes restoration of the Original Improvements and Alterations, such that the Premises are no longer untenable (or such earlier date following the Casualty that Tenant conducts business from the Premises), or (b) if Landlord did not deliver the Landlord Repair Notice, the earlier of the date that Tenant substantially completes restoration of Tenant's Insured Property (such that the Premises are no longer untenable) and the date that Tenant would have substantially completed restoration of Tenant's Insured Property if Tenant had used reasonable diligence (or such earlier date following the Casualty that Tenant conducts business from the Premises). Except for the foregoing Rent abatement, Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from a Casualty.

### 11.3 **Casualty Termination Rights.**

11.3.1 **Landlord Termination Rights.** Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Landlord's Insured Property, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty (60) days after the date of discovery of the damage from Casualty, such notice to include a termination date giving Tenant ninety (90) days to vacate the Premises, if one or more of the following conditions is present: (i) in Landlord's reasonable judgment, repairs cannot reasonably be completed within one hundred eighty (180) days after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the Mortgagee shall require that the insurance proceeds or any portion thereof be used to retire or terminate the Mortgage; (iii) the damage is not fully covered by Landlord's insurance policies; (iv) Landlord decides to rebuild the Building or Common Areas so that they will be substantially different structurally or architecturally; (v) the damage occurs during the last twelve (12) months of the Lease Term; or (vi) any owner of any other portion of the Project, other than Landlord, does not intend to repair the damage to such portion of the Project.

11.3.2 **Tenant Termination Rights.** If all of the Casualty Conditions are satisfied and either the repairs cannot, in the reasonable opinion of Landlord, be completed within one hundred eighty (180) days after being commenced or the damage occurs during the last twelve (12) months of the Lease Term, Tenant may elect, no earlier than sixty (60) days after the date of the damage and not later than ninety (90) days after the date of such damage, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant. In the event this Lease is terminated in accordance with the terms of this Section 11.3, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under items (ii) and (iii) of Section 10.3.2 of this Lease.

11.4 **Waiver of Statutory Provisions.** The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Project, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Project.

## **ARTICLE 12**

### **NONWAIVER**

No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance



of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

**ARTICLE 13**

**CONDEMNATION**

If the whole or any part of the Premises, Building or Project shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any part of the Premises, Building or Project, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. If more than twenty-five percent (25%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claims do not diminish the award available to Landlord, its ground lessor with respect to the Building or Project or its mortgagee, and such claim is payable separately to Tenant. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of rentable square feet of the Premises taken bears to the total rentable square feet of the Premises. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

**ARTICLE 14**

**ASSIGNMENT AND SUBLETTING**

14.1 **Transfers**. Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "**Transfers**" and any person or entity to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "**Transferee**"). If Tenant desires Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the "**Transfer Notice**") shall include (i) the proposed effective date of the Transfer, which shall not be less than twenty (20) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "**Subject Space**"), (iii) all of the terms of the proposed Transfer and the consideration therefor, including calculation of the "Transfer Premium", as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing executed



and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be executed to evidence such Transfer or the agreements incidental or related to such Transfer, provided that Landlord shall have the right to require Tenant to utilize Landlord's standard Transfer documents in connection with the documentation of such Transfer, (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, business credit and personal references and history of the proposed Transferee and any other information required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business and proposed use of the Subject Space and (v) an executed estoppel certificate from Tenant in the form attached hereto as **Exhibit E**. Any Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute an Event of Default by Tenant under this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's review and processing fees, as well as any reasonable actual professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord, within thirty (30) days after written request by Landlord; provided that such review and processing fees and attorneys' fees and costs shall not exceed Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) in the aggregate for any one (1) particular Transfer in the ordinary course of business. Landlord and Tenant hereby agree that a proposed Transfer shall not be considered "in the ordinary course of business" if such particular proposed Transfer involves the review of documentation by Landlord on more than two (2) occasions.

14.2 **Landlord's Consent.** Landlord shall not unreasonably withhold, condition or delay its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice. Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Project;

14.2.2 The Transferee intends to use the Subject Space for purposes which are not permitted under this Lease;

14.2.3 The Transferee is either a governmental agency or instrumentality thereof;

14.2.4 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested (taking into consideration that Tenant has a continuing liability to fulfill the obligations of the Lease);

14.2.5 The proposed Transfer would cause a violation of another lease for space in the Project, or would give an occupant of the Project a right to cancel its lease;

14.2.6 The terms of the proposed Transfer will allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the Transferee to occupy any space at the Building pursuant to any such right that has not previously been exercised by Tenant); or

14.2.7 Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee, (i) occupies space in the Project at the time of the request for consent (provided that Landlord will not withhold its consent solely because the proposed Transferee is an occupant of the Project if Landlord does not have reasonably comparable space available for lease to such proposed Transferee in the Project within three (3) months of the anticipated commencement of the proposed Transfer), or (ii) is negotiating with Landlord to lease space in the Project at such time, or (iii) has negotiated with Landlord during the three (3)-month period immediately preceding the Transfer Notice; or

14.2.8 The Transferee does not intend to occupy the entire Premises and conduct its business therefrom for a substantial portion of the term of the Transfer.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2 (and does not exercise any

recapture rights Landlord may have under Section 14.4 of this Lease), Tenant may within six (6) months after Landlord's consent, but not later than the expiration of said six (6)-month period, enter into such Transfer of the Premises or portion thereof, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice (i) such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, or (ii) which would cause the proposed Transfer to be more favorable to the Transferee than the terms set forth in Tenant's original Transfer Notice, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord's right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under this Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives the provisions of Section 1995.310 of the California Civil Code, or any successor statute, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee. Tenant shall indemnify, defend and hold harmless Landlord from any and all Losses involving any third party or parties (including without limitation Tenant's proposed subtenant or assignee) who claim they were damaged by Landlord's wrongful withholding or conditioning of Landlord's consent.

14.3 **Transfer Premium.** If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "Transfer Premium," as that term is defined in this Section 14.3, received by Tenant from such Transferee. "Transfer Premium" shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer in excess of the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, (ii) any free base rent or other economic concessions reasonably provided to the Transferee, and (iii) any brokerage commissions, marketing and advertising costs, and attorneys' fees in connection with the Transfer. "Transfer Premium" shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer.

14.4 **Landlord's Option as to Subject Space.** Notwithstanding anything to the contrary contained in this Article 14, Landlord shall have the option except in the case of a Transfer to a Permitted Transferee pursuant to Section 14.8, by giving written notice to Tenant within thirty (30) days after receipt of any Transfer Notice, in the event of a proposed assignment of this Lease or sublease that would (i) result in fifty percent (50%) or more of the Premises (when aggregated with all prior subleases then in effect) being subject to a sublease, or (ii) be for a term of more than fifty percent (50%) of the then-remaining Lease Term, or (iii) result in a full floor of the Premises being subject to a sublease for substantially all of the remaining Lease Term, to recapture the Subject Space. Such recapture notice shall cancel and terminate this Lease with respect to the Subject Space as of the date stated in the Transfer Notice as the effective date of the proposed Transfer until the last day of the term of the Transfer as set forth in the Transfer Notice (or at Landlord's option, shall cause the Transfer to be made to Landlord or its agent, in which case the parties shall execute the Transfer documentation promptly thereafter). In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved herein shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner to recapture the Subject Space under this Section 14.4, then, provided Landlord has consented to the proposed Transfer, Tenant shall be entitled to proceed to Transfer the Subject Space to the proposed Transferee, subject to provisions of this Article 14.

14.5 **Effect of Transfer.** If Landlord consents to a Transfer, (i) the TCCs of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed

copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant or any guarantor of the Lease from any liability under this Lease, including, without limitation, in connection with the Subject Space. Landlord or its authorized representatives shall have the right, upon not less than five (5) business days' advance written notice to Tenant, to audit the books, records and papers of Tenant relating to any Transfer, subject to the following limitations: (A) the audit must occur during the normal business hours of Tenant at Tenant's office in the Building or at such other location as Tenant may reasonably designate in the San Francisco Bay Area; (B) the audit shall last no longer than one (1) business day; (C) Landlord and its authorized representatives shall have no right to make copies of Tenant's books, records and papers; (D) Landlord shall not conduct any such audit more than once during any twelve (12) month period (provided, however, that the foregoing limitation shall no longer apply if the Transfer Premium is found at any time to be understated by more than five percent (5%)); and (E) Landlord shall enter into Landlord's standard commercially reasonable form of confidentiality agreement with Tenant, which agreement shall cover confidential financial information provided by Tenant to Landlord in connection with such audit. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than five percent (5%), Tenant shall pay Landlord's costs of such audit up to a maximum of Five Thousand Dollars (\$5,000.00).

**14.6 Additional Transfers.** For purposes of this Lease, the term "Transfer" shall also include (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of more than fifty percent (50%) or more of the partners, or transfer of more than fifty percent (50%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (*i.e.*, whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant, subject to Section 14.8 below or (B) the sale or other transfer of an aggregate of more than fifty percent (50%) or more of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period subject to Section 14.8 below, or (C) the sale, mortgage, hypothecation or pledge of an aggregate of more than fifty percent (50%) or more of the value of the unencumbered assets of Tenant within a twelve (12)-month period. Notwithstanding anything to the contrary set forth in this Section 14.6 and except as set forth in item (B) of Section 14.8 below, if Tenant is a corporation, so long as Tenant is publicly traded on a major over-the-counter stock exchange, the ordinary transfer of shares over the counter shall be deemed not to be a Transfer for purposes of this Section 14.6.

**14.7 Occurrence of Default.** Any Transfer hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such Transfer as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such Transferee attorn to and recognize Landlord as its landlord under any such Transfer. If an Event of Default exists, Landlord is hereby irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such Event of Default is cured. Such Transferee shall rely on any representation by Landlord that an Event of Default exists, without any need for confirmation thereof by Tenant. Upon any assignment, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord's enforcement of any provision of this Lease against any Transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person. If Tenant's obligations hereunder have been guaranteed, Landlord's consent to any Transfer shall not be effective unless the guarantor also consents to such Transfer.

**14.8 Deemed Consent Transfers.** Notwithstanding anything to the contrary contained in this Lease, (A) an assignment or subletting of all or a portion of the Premises to an affiliate of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant as of the date of this Lease), (B) a sale of corporate shares of capital stock in Tenant in connection with an initial public offering of Tenant's stock on a nationally-recognized stock

exchange, (C) an assignment of the Lease to an entity which acquires all or substantially all of the stock or assets of Tenant, or (D) an assignment of the Lease to an entity which is the resulting entity of a merger, consolidation or reorganization of Tenant during the Lease Term, shall not be deemed a Transfer requiring Landlord's consent under this Article 14 (any such assignee or sublessee described in items (A) through (D) of this Section 14.8 hereinafter referred to as a "**Permitted Transferee**"), provided that (i) Tenant notifies Landlord at least thirty (30) days prior to the effective date of any such assignment or sublease and promptly supplies Landlord with any documents or information reasonably requested by Landlord regarding such Transfer or Permitted Transferee as set forth above (or promptly after such transaction if disclosure is prohibited by legally enforceable confidentiality requirements or Applicable Law), (ii) no Event of Default then exists, and such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease, (iii) such Permitted Transferee shall be of a character and reputation consistent with the quality of the Building, (iv) such Permitted Transferee shall have a tangible net worth (not including goodwill as an asset) computed in accordance with generally accepted accounting principles ("**Net Worth**") at least equal to Fifty Million Dollars (\$50,000,000.00), (v) no assignment or sublease relating to this Lease, whether with or without Landlord's consent, shall relieve Tenant from any liability under this Lease, and (vi) the liability of such Permitted Transferee under either an assignment or sublease shall be joint and several with Tenant. An assignee of Tenant's entire interest in this Lease who qualifies as a Permitted Transferee may also be referred to herein as a "**Permitted Transferee Assignee**." "Control," as used in this Section 14.8, shall mean the ownership, directly or indirectly, of more than fifty percent (50%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of more than fifty percent (50%) of the voting interest in, any person or entity.

## ARTICLE 15

### SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES

15.1 **Surrender of Premises**. No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 **Removal of Tenant Property by Tenant**. Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as existed as of the Lease Commencement Date and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord hereunder excepted. Upon such expiration or termination, in addition to Tenant's obligations under Section 29.32, below, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, server and telephone equipment, movable partitions and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal.

## ARTICLE 16

### HOLDING OVER

If Tenant holds over after the expiration of the Lease Term, with the express written consent of Landlord, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term, and in such case Base Rent shall be payable at a monthly rate equal to the product of (i) the Base Rent applicable during the last rental period of the Lease Term under this Lease, and (ii) a percentage equal to one hundred twenty-five percent (125%) for each of the first three (3) months of holdover and one hundred fifty percent (150%)



for each month thereafter. Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained herein. If Tenant holds over after the expiration of the Lease Term without the express written consent of Landlord, such tenancy shall be a tenancy at sufferance, and shall not constitute a renewal hereof or an extension for any further term, and in such case daily damages in any action to recover possession of the Premises shall be calculated at a daily rate equal to the product of (i) the Base Rent applicable during the last rental period of the Lease Term under this Lease, and (ii) a percentage equal to one hundred twenty-five percent (125%) for each of the first three (3) months of holdover and one hundred fifty percent (150%) for each month thereafter. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to vacate and deliver possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant holds over without Landlord's express written consent, and tenders payment of rent for any period beyond the expiration of the Lease Term by way of check (whether directly to Landlord, its agents, or to a lock box) or wire transfer, Tenant acknowledges and agrees that the cashing of such check or acceptance of such wire shall be considered inadvertent and not be construed as creating a month-to-month tenancy, provided Landlord refunds such payment to Tenant promptly upon learning that such check has been cashed or wire transfer received. Tenant acknowledges that any holding over without Landlord's express written consent may compromise or otherwise affect Landlord's ability to enter into new leases with prospective tenants regarding the Premises. Therefore, if Tenant fails to vacate and deliver the Premises upon the termination or expiration of this Lease within thirty (30) days after Landlord notifies Tenant that Landlord has entered into a lease for the Premises or has received a bona fide offer to lease the Premises, and that Landlord will be unable to deliver possession, or perform improvements, due to Tenant's holdover, and Landlord did not give its express written consent to Tenant's failure to vacate and deliver the Premises upon the termination or expiration of this Lease, then, in addition to any other Losses to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from and against all claims made by any succeeding tenant founded upon such failure to vacate and deliver, and any losses suffered by Landlord, including lost profits, resulting from such failure to vacate and deliver. Tenant agrees that any proceedings necessary to recover possession of the Premises, whether before or after expiration of the Lease Term, shall be considered an action to enforce the terms of this Lease for purposes of the awarding of any attorney's fees in connection therewith.

#### ARTICLE 17

#### ESTOPPEL CERTIFICATES

Within ten (10) days following a request in writing by Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of Exhibit E, attached hereto (or such other form as may be required by any prospective mortgagee or purchaser of the Project, or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee. Any such certificate may be relied upon by any prospective mortgagee or purchaser of all or any portion of the Project. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. At any time during the Lease Term, Landlord may require Tenant to provide Landlord with a current financial statement and financial statements of the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Notwithstanding the foregoing, in connection with the Original Tenant only, in the event that (i) stock in the entity which constitutes Original Tenant under this Lease is publicly traded on a national stock exchange, and (ii) Original Tenant has its own, separate and distinct 10K and 10Q filing requirements (as opposed joint or cumulative filings with an entity that controls Original Tenant or with entities which are otherwise affiliates of Original Tenant), then Original Tenant's obligation to provide Landlord with a copy of its most recent current financial statement shall be deemed satisfied. Failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception. Notwithstanding the foregoing, Landlord shall not request financial statements more than once in each consecutive one (1) year period during the Lease Term unless (i) an Event of Default exists, (ii) Landlord reasonably believes that there has been an adverse change in Tenant's financial position since the last financial statement provided to Landlord,



or (iii) requested in connection with a proposed financing, sale or transfer of any portion of Landlord's interest in the Building or Project.

**ARTICLE 18**

**SUBORDINATION**

This Lease shall be subject and subordinate to all present and future ground or underlying leases of the Building or Project and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Project or any part thereof, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), if so requested to do so by such purchaser or lienholder or ground lessor, and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, provided such lienholder or purchaser or ground lessor shall agree to accept this Lease and not disturb Tenant's occupancy, so long as Tenant timely pays the rent and observes and performs the TCCs of this Lease to be observed and performed by Tenant. Landlord's interest herein may be assigned as security at any time to any lienholder. Tenant shall, within ten (10) days of request by Landlord, execute such further reasonable instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale. Landlord represents and warrants to Tenant that as of the date of this Lease, there is no mortgage, trust deed or ground lease in force against the Building or Project or any part thereof.

**ARTICLE 19**

**EVENTS OF DEFAULTS; REMEDIES**

19.1 **Events of Default.** In addition to any other Events of Default specified elsewhere in this Lease, the occurrence of any of the following shall constitute an "Event of Default" by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due unless such failure is cured within five (5) business days after notice; or

19.1.2 Except where a specific time period is otherwise set forth for Tenant's performance in this Lease, in which event the failure to perform by Tenant within such time period shall be an Event of Default by Tenant under this Section 19.1.2, any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, no Event of Default shall be deemed to have occurred under this Section 19.1.2 if Tenant diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default, but in no event exceeding a period of time in excess of ninety (90) days after written notice thereof from Landlord to Tenant; or

19.1.3 To the extent permitted by law, (i) Tenant or any guarantor of this Lease being placed into receivership or conservatorship, or becoming subject to similar proceedings under Federal or State law, or (ii) a general assignment by Tenant or any guarantor of this Lease for the benefit of creditors, or (iii) the taking of any corporate action in furtherance of bankruptcy or dissolution whether or not there exists any proceeding under an insolvency or bankruptcy law, or (iv) the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of such a proceeding filed against Tenant or any guarantor the same is dismissed within sixty (60) days, or (v) the appointment of a trustee or receiver to take possession of all or substantially all of



the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within thirty (30) days, or (vi) any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within thirty (30) days; or

19.1.4 Abandonment or vacation of all or a substantial portion of the Premises by Tenant (provided that temporarily vacating the Premises to facilitate remodeling, repairs, or a Transfer, or for a temporary shutdown of business, or due to an event of Force Majeure (as defined in Section 29.16) shall not constitute a default so long as Tenant continues to pay the Rent and otherwise complies with the TCCs under this Lease and so long as Tenant does not abandon the Premises or allow the Premises to appear abandoned or otherwise adversely impact the normal and customary operations of the Building or the Project (including, without limitation, creating any potential security risk or attractive nuisance); or

19.1.5 The failure by Tenant to observe or perform according to the provisions of Articles 5, 14, 17 or 18 of this Lease where such failure continues for more than two (2) business days after notice from Landlord; or

19.1.6 Tenant's failure to occupy the Premises within one hundred fifty (150) days after the Lease Commencement Date; provided, however, that (i) Tenant shall be deemed to have occupied the Premises as of the date that at least one person is consistently working in the Premises during regular business days and hours for the building, and Tenant has received a certificate of occupancy, temporary certificate of occupancy, or signed off permit card (or their legal equivalent) allowing legal occupancy of the Premises and (ii) the one hundred fifty (150) day period shall be extended on a day-for-day basis for each day that Tenant is unable to occupy the Premises as the result of events or circumstances beyond its reasonable control, including without limitation, delays by the City and County of San Francisco or other governmental authorities or any event of Force Majeure, as defined in Section 29.16.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law.

19.2 **Remedies Upon Event of Default.** Upon the occurrence of any Event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim for damages therefor; and Landlord may recover from Tenant the following:

19.2.1.1.1 The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

19.2.1.1.2 The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

19.2.1.1.3 The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

19.2.1.1.4 Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, brokerage commissions and

advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

19.2.1.1.5 At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "rent" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 19.2.1(a) and (b), above, the "worth at the time of award" shall be computed by allowing interest at the Interest Rate. As used in Section 19.2.1(c), above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any Event of Default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

19.3 **Subleases of Tenant.** Whether or not Landlord elects to terminate this Lease on account of any Event of Default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.4 **Form of Payment After Default.** Following the occurrence of an event of default by Tenant, Landlord shall have the right to require that any or all subsequent amounts paid by Tenant to Landlord hereunder, whether to cure the default in question or otherwise, be paid in the form of cash, money order, cashier's or certified check drawn on an institution acceptable to Landlord, or by other means approved by Landlord, notwithstanding any prior practice of accepting payments in any different form.

19.5 **Efforts to Relet.** No re-entry or repossession, repairs, maintenance, changes, alterations and additions, reletting, appointment of a receiver to protect Landlord's interests hereunder, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

19.6 **Landlord Default.** Notwithstanding anything to the contrary set forth in this Lease, Landlord shall be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease if Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30) day period and thereafter diligently pursues the same to completion. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity. Any award from a court or arbitrator in favor of Tenant requiring payment by Landlord which is not paid by Landlord within the time period directed by such award, may be offset by Tenant from Rent next due and payable under this Lease; provided, however, Tenant may not deduct

the amount of the award against more than fifty percent (50%) of Base Rent next due and owing (until such time as the entire amount of such judgment is deducted) to the extent following a foreclosure or a deed-in-lieu of foreclosure.

## ARTICLE 20

### COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other TCCs, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the TCCs, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

## ARTICLE 21

### LETTER OF CREDIT

21.1 **Delivery of Letter of Credit.** Tenant shall cause the “Bank” (as that term is defined below) to deliver to Landlord, prior to the Lease Commencement Date, a standby letter of credit (the “L-C”) that complies in all respects with the requirements of this Article 21 in the amount set forth in Section 8 of the Summary (the “L-C Amount”). The L-C shall: (i) be issued by a Bank; (ii) be in the form attached hereto as Exhibit E; (iii) be irrevocable, unconditional, and payable upon demand; (iv) be maintained in effect, whether through renewal or extension, for the period commencing on the date of this Lease and continuing until the date (the “L-C Expiration Date”) that is no less than one hundred twenty (120) days following the expiration of the Lease Term, as the same may be extended, (v) be drawable in either Los Angeles or San Francisco, California, (vi) contain a provision that provides that the L-C shall be automatically renewed on an annual basis without amendment of the L-C unless the Bank delivers a written notice of cancellation to Landlord at least sixty (60) days prior to the expiration of the L-C, without any action whatsoever on the part of Landlord; (vii) be fully assignable by Landlord, its successors and assigns; (viii) permit partial draws and multiple presentations and drawings, and (ix) be otherwise subject to the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590 or Uniform Customs and Practices for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600. Tenant shall pay all expenses, points, and/or fees incurred by Tenant in obtaining and maintaining the L-C. The term “Bank” referred to herein shall mean a commercial, solvent, nationally recognized bank, approved by Landlord, that satisfies all of the following requirements (the “Bank Requirements”): (a) has a long-term, unsecured, and unsubordinated debt obligations rating of no less than “A” by Fitch Ratings Ltd. (“Fitch”) and a short term deposit rating of no less than “F1” by Fitch (or in the event such applicable Fitch ratings are no longer available, comparable ratings from Standard and Poor’s Professional Rating Service or Moody’s Professional Rating Service); (b) accepts deposits and maintains accounts; (c) is chartered under the laws of the United States, any state thereof, or the District of Columbia, and which is insured by the Federal Deposit Insurance Corporation; and (d) is not subject to the control or jurisdiction of any receiver, trustee, custodian, conservator, liquidator or similar official under any federal or state or common law. Landlord accepts First Citizens Bank and Trust Co., Santa Clara, CA as an acceptable issuing bank.

21.2 **L-C Draw Event.** Each of the following is an “L-C Draw Event”: (i) such amount is due to Landlord under the terms and conditions of this Lease; (ii) the Lease has terminated prior to the expiration of the Lease Term as a result of Tenant’s breach or default of any term or provision of the Lease; (iii) Tenant has filed a voluntary petition under the U.S. Bankruptcy Code or any state bankruptcy code (collectively, “Bankruptcy Code”); (iv) an involuntary petition has been filed against Tenant under the Bankruptcy Code; (v) the Lease has been rejected or disaffirmed, or is deemed rejected or disaffirmed, under Section 365 of the U.S. Bankruptcy Code or any similar federal or state or common law; (vi) the Bank has notified Landlord that the L-C will not be renewed or extended through the L-C Expiration Date; (vii) the Bank has failed to notify Landlord that the L-C will be renewed or extended on or before the date that is sixty (60) days before the then applicable L-C expiration date; (viii) Tenant is placed into receivership, liquidation, or conservatorship, or becomes subject to similar proceedings under federal or state law; (ix) Tenant executes an assignment for the benefit of creditors or commences an involuntary dissolution or becomes subject to an involuntary dissolution; or (x) the Bank no longer satisfies the Bank Requirements or there is otherwise a material adverse change in the financial condition of the Bank.



21.3 **Application of L-C Proceeds.** In the event of any L-C Draw Event, Landlord may, but without obligation to do so, and without notice to Tenant (except in connection with an L-C Draw Event under Section 21.2(x) above) draw upon the L-C, in part or in whole, and may, but is not obligated to, apply the proceeds of the L-C to any and all amounts due and owing under this Lease and to compensate Landlord for any and all damages or losses of any kind or nature sustained or which Landlord reasonably estimates that it will sustain resulting from Tenant's breach or default of the Lease or other L-C Draw Event and/or to compensate Landlord for any and all damages or losses arising out of, or incurred in connection with, the termination of this Lease, including, without limitation, those specifically identified in Section 1951.2 of the California Civil Code. The use, application, or retention of the L-C proceeds, or any portion thereof, by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by any Applicable Laws, and Landlord shall not first be required to proceed against the L-C, and such L-C or the proceeds thereof shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. No condition or term of this Lease shall be deemed to render the L-C conditional to justify the issuer of the L-C in failing to honor a drawing upon such L-C in a timely manner. Tenant agrees and acknowledges that: (i) the L-C constitutes a separate and independent contract between Landlord and the Bank; (ii) Tenant is not a third party beneficiary of such contract; (iii) Tenant has no property interest whatsoever in the L-C or the proceeds thereof; and (iv) in the event Tenant becomes a debtor under any chapter of the Bankruptcy Code, Tenant is placed into receivership or conservatorship, there is an event of a receivership, conservatorship, or bankruptcy filing by, or on behalf of, Tenant, or Tenant executes an assignment for the benefit of creditors, neither Tenant, any trustee, receiver, conservator, assignee, nor Tenant's bankruptcy estate shall have any right to restrict or limit Landlord's claim or rights to the L-C or the proceeds thereof by application of Section 502(b)(6) of the U.S. Bankruptcy Code, any similar state or federal law, or otherwise.

21.4 **Replenishment, Renewal and Replacement of L-C.** Tenant shall have no right to replace the L-C without Landlord's express written consent, which may be withheld in Landlord's sole and absolute discretion. In the event Landlord consents to the replacement of the L-C for any reason, Landlord may require, as a condition of such consent, that the L-C remain in place with all existing rights thereunder for a period of one hundred ten (110) days following the delivery of the new L-C, and Tenant shall extend the original L-C as necessary to facilitate the same. The new L-C shall comply with all terms and conditions of this Article 21. If, as a result of any drawing by Landlord on the L-C pursuant to an L-C Draw Event, the amount of the L-C shall be less than the L-C Amount, Tenant shall, within ten (10) days after written notice thereof from Landlord, provide Landlord with (i) an amendment to the L-C restoring such L-C to the L-C Amount or (ii) an additional L-C in an amount equal to the deficiency, which additional L-C shall comply with all of the provisions of this Article 21. If the L-C expires earlier than the L-C Expiration Date, Tenant shall deliver a certificate of renewal or extension to Landlord at least sixty (60) days prior to the expiration of the L-C then held by Landlord, without any action whatsoever on the part of Landlord. In furtherance of the foregoing, if the L-C has an expiration date prior to the L-C Expiration Date, Landlord and Tenant agree that the L-C shall contain a so-called "evergreen provision," whereby the L-C will automatically be renewed, without amendment, unless at least sixty (60) days' prior written notice of non-renewal is provided by the issuer to Landlord. If the Bank fails to satisfy any of the Bank Requirements, Tenant shall deliver a replacement L-C to Landlord within ten (10) business days of Landlord's request therefor. At any time that Tenant has failed to timely provide Landlord with a renewed L-C, amended L-C, additional L-C or replacement L-C as and when required under this Lease, then notwithstanding anything in this Lease to the contrary, Landlord shall have the right to declare that an Event of Default has occurred for which there shall be no notice or grace or cure periods applicable thereto. The L-C shall be honored by the Bank regardless of whether Tenant disputes Landlord's right to draw upon the L-C. Tenant shall be responsible for the payment of any and all costs incurred by Landlord (including, without limitation, Landlord's reasonable attorneys' fees) relating to the review of any renewed, amended, additional or replacement L-C.

21.5 In the event that Landlord draws on the L-C pursuant to an L-C Draw Event, subject to Section 21.10 below, (i) any unused proceeds shall constitute the property of Landlord (and not Tenant's property or, in the event of a receivership, conservatorship, or bankruptcy filing by, or on behalf of, Tenant, property of such receivership, conservatorship or Tenant's bankruptcy estate) and need not be segregated from Landlord's other assets, and (ii) Landlord agrees to pay to Tenant within thirty (30) days after the L-C Expiration Date the amount of any proceeds of the L-C received by Landlord and not applied as contemplated in this Article 21; provided, however, that if prior to the L-C Expiration Date a voluntary petition is filed by Tenant, or an involuntary petition is filed against Tenant by any of Tenant's creditors, under the Bankruptcy Code or if Tenant executes an assignment for the benefit of creditors or is placed in receivership or liquidation, then Landlord shall not be obligated to make such payment in the amount

of the unused L-C proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed.

21.6 **Transfer and Encumbrance**. Tenant has no right to assign or encumber the L-C or any part thereof and neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. In the event of an assignment by Tenant of its interest in the Lease (and irrespective of whether Landlord's consent is required for such assignment), the acceptance of any replacement or substitute letter of credit by Landlord from the assignee shall be subject to Landlord's prior written approval, in Landlord's sole and absolute discretion. At any time and without notice to Tenant and without first obtaining Tenant's consent thereto, Landlord may transfer (one or more times) all or any portion of its interest in and to the L-C to another party, person or entity, regardless of whether or not such transfer is from or as a part of the assignment by Landlord of its rights and interests in and to this Lease. In the event of a transfer of Landlord's interest in this Lease, Landlord shall transfer the L-C, in whole or in part, to the transferee and thereupon Landlord shall, without any further agreement between the parties, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole of said L-C to a new landlord. In connection with any such transfer of the L-C by Landlord, Tenant shall, at Tenant's sole cost and expense, execute and submit to the Bank such applications, documents and instruments as may be necessary to effectuate such transfer, and Tenant shall be responsible for paying the Bank's transfer and processing fees in connection therewith, provided that Landlord shall have the right (in its sole discretion), but not the obligation, to pay such fees on behalf of Tenant.

21.7 **L-C Not a Security Deposit**. In no event or circumstance shall the L-C, any renewal or substitute therefor or any proceeds thereof be deemed to be or treated as a "security deposit" under any law applicable to security deposits in the commercial context, including, but not limited to, Section 1950.7 of the California Civil Code, as such Section now exists or as it may be hereafter amended or succeeded (the "**Security Deposit Laws**"). The L-C (including any renewal thereof or substitute therefor or any proceeds thereof) is not intended to serve as a security deposit, and the Security Deposit Laws shall have no applicability or relevancy thereto. Landlord and Tenant hereby waive any and all rights, duties and obligations that any such party may now, or in the future will, have relating to or arising from the Security Deposit Laws. Tenant hereby irrevocably waives and relinquishes the provisions of Section 1950.7 of the California Civil Code and any successor statute, and all other provisions of law, now or hereafter in effect, which (x) establish the time frame by which a landlord must refund a security deposit under a lease, and/or (y) provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the premises.

21.8 **Non-Interference By Tenant**. Tenant agrees not to interfere in any way with any payment to Landlord of the proceeds of the L-C, either prior to or following a "draw" by Landlord of all or any portion of the L-C, regardless of whether any dispute exists between Tenant and Landlord as to Landlord's right to draw down all or any portion of the L-C. No condition or term of this Lease shall be deemed to render the L-C conditional and thereby afford the Bank a justification for failing to honor a drawing upon such L-C in a timely manner. Tenant shall not request or instruct the Bank to refrain from paying sight draft(s) drawn under such L-C.

21.9 **Waiver of Certain Relief**. Tenant unconditionally and irrevocably waives (and as an independent covenant hereunder, covenants not to assert) any right to claim or obtain any of the following relief in connection with the L-C:

21.9.1 A temporary restraining order, temporary injunction, permanent injunction, or other order that would prevent, restrain or restrict the presentment of sight drafts drawn under the L-C or the Bank's honoring or payment of sight draft(s); or

21.9.2 Any attachment, garnishment, or levy in any manner upon either the proceeds of the L-C or the obligations of the Bank (either before or after the presentment to the Bank of sight drafts drawn under such L-C) based on any theory whatever.

21.10 **Remedy for Improper Drafts**. Tenant's sole and exclusive remedy in connection with Landlord's improper draw against the L-C or Landlord's improper application or retention of any proceeds of the L-C shall be the right to obtain from Landlord a refund of the amount of any sight draft(s) that were improperly presented or the

proceeds of which were misapplied or wrongfully held, together with interest at the Interest Rate and reasonable actual out-of-pocket attorneys' fees, provided that at the time of such refund, Tenant increases the amount of such L-C to the amount (if any) then required under the applicable provisions of this Lease. Tenant irrevocably waives any right to secondary, incidental, indirect or consequential damages in any way related to Landlord's draw on the L-C. Tenant acknowledges that Landlord's draw against the L-C, application or retention of any proceeds thereof, or the Bank's payment under such L-C, could not, under any circumstances, cause Tenant injury that could not be remedied by an award of money damages, and that the recovery of money damages would be an adequate remedy therefor. In the event Tenant shall be entitled to a refund as aforesaid and Landlord shall fail to make such payment within ten (10) business days after demand, Tenant shall have the right to deduct the amount thereof together with interest thereon at the Interest Rate from the next installment(s) of Base Rent.

**ARTICLE 22**

**INTENTIONALLY OMITTED**

**ARTICLE 23**

**SIGNS**

23.1 **Full Floors.** Subject to Landlord's prior written approval, in its sole discretion, and provided all signs are in keeping with the quality, design and style of the Building and Project, Tenant, if the Premises comprise an entire floor of the Building, at its sole cost and expense, may install identification signage anywhere in the Premises including in the elevator lobby of the Premises, provided that such signs must not be visible from the exterior of the Building.

23.2 **Multi-Tenant Floors.** If other tenants occupy space on the floor on which the Premises is located, Tenant's identifying signage shall be provided by Landlord, and such signage shall be comparable to that used by Landlord for other similar floors in the Building and shall comply with Landlord's Building standard signage program.

23.3 **Building Directory.** A building directory is located in the lobby of the Building. Tenant shall have the right, at Landlord's sole cost and expense as to Tenant's initial name strip, to designate one (1) name strip on such directory, and any subsequent changes to Tenant's name strip shall be at Tenant's sole cost and expense following Tenant's receipt of Landlord's consent thereto (which consent may be withheld in Landlord's sole and absolute discretion).

23.4 **Prohibited Signage and Other Items.** Any signs, notices, logos, pictures, names or advertisements which are installed and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Tenant may not install any signs on the exterior or roof of the Project or the Common Areas. Any signs, window coverings, or blinds (even if the same are located behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its sole discretion.

23.5 **Tenant's Exterior Signage.** Subject to the terms and conditions of this Section 23.5, Tenant, at Tenant's sole cost and expense, shall have the right to install, repair and maintain signage depicting Tenant's name on the exterior of the Building ("**Tenant's Exterior Signage**"), consisting of one (1) exterior elevation of the Building, which elevation shall be at a location mutually agreeable to Landlord and Tenant; provided, however, that such Tenant's Exterior Signage shall be smaller and not installed in the same location as the existing "Capital One" sign located on the exterior of the Building. The graphics, materials, color, design, lettering, lighting, size, illumination, specifications and exact location of Tenant's Exterior Signage shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, without limiting other reasons for which Landlord may reasonably withhold its approval, it shall be deemed reasonable for Landlord to withhold its approval of Tenant's Exterior Signage if the same is inconsistent with, or otherwise not compatible with the quality, design and style of the Project, the Project-wide signage program (the "**Signage Program**") (as approved by the city in which the Building is located), or if such signage unreasonably interferes with the Building's exterior window cleaning systems. Tenant's Exterior Signage shall otherwise be constructed as an Alteration or Improvement, as applicable. In addition, Tenant's Exterior Signage shall be subject to Tenant's receipt



of all required governmental permits and approvals and shall be subject to all Applicable Laws, and the Signage Program. Notwithstanding Landlord's approval of Tenant's Exterior Signage, Landlord has made no representation or warranty to Tenant with respect to the probability of obtaining all necessary governmental approvals and permits for Tenant's Exterior Signage. Tenant shall install Tenant's Exterior Signage within eighteen (18) months following the Lease Commencement Date, or Tenant's rights to install Tenant's Exterior Signage shall expire. Tenant's Exterior Signage shall constitute Tenant's Off-Premises Equipment. If the Tenant's Exterior Signage uses any electricity, Tenant shall pay for the cost to purchase and install electrical submeter equipment and wiring, and thereafter Tenant shall pay to Landlord the monthly electrical submeter charges throughout the Lease Term.

23.5.1 **Objectionable Name or Logo.** Any Tenant name and/or logo shall not have a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Project, or which would otherwise be reasonably objectionable to a landlord of a Comparable Building (an "**Objectionable Name**"). The parties hereby agree that the name Amplitude, Inc. or any reasonable derivation thereof, shall not be deemed an Objectionable Name. Any changes to Tenant's Exterior Signage shall be at Tenant's sole cost and expense, and subject to Landlord's approval.

23.5.2 **Termination of Tenant's Exterior Signage.** Tenant's Exterior Signage rights are not transferrable, except to a Permitted Transferee Assignee. Tenant shall not have the right to Tenant's Exterior Signage, and Tenant's Exterior Signage right shall terminate upon the earliest to occur of (a) Tenant's assignment of this Lease, other than to a Permitted Transferee Assignee, (b) Tenant's sublease of more than fifty percent (50%) or more of the entire then-existing Premises, other than to a Permitted Transferee for substantially the remaining Lease Term, (c) [Intentionally Deleted] and (d) the occurrence of the second (2<sup>nd</sup>) Event of Default. If Tenant's Exterior Signage rights terminate prior to the expiration of the Lease Term, Tenant shall comply with the removal and restoration terms of this Lease, as if the Lease Term were expiration as of the date of such early termination.

## ARTICLE 24

### COMPLIANCE WITH LAW

24.1 **Tenant's Compliance Obligations.** Tenant shall not do anything or suffer anything to be done in or about the Premises or the Project which will in any way conflict with any law, statute, ordinance or other rule, directive, order, regulation, guideline, or requirement of any governmental entity or governmental agency now in force or which may hereafter be enacted or promulgated (collectively, "**Applicable Laws**"). At its sole cost and expense, Tenant shall promptly comply with all Applicable Laws (including the making of any alterations to the Premises required by Applicable Laws) which relate to (i) Tenant's use of, or requirements to cease or reduce Tenant's business operations in or Tenant's use of, the Premises, (ii) Tenant's Repair Obligations, and (iii) Tenant's Insured Property. Should any standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant, at its sole cost and expense, shall comply promptly with such standards or regulations. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any of said governmental measures, shall be conclusive of that fact as between Landlord and Tenant.

24.2 **Landlord's Compliance Obligations.** Landlord shall comply with all Applicable Laws relating to Landlord's Repair Obligations and Landlord's Insured Property to the extent that Landlord's failure to comply therewith would prohibit Tenant from obtaining or maintaining a certificate of occupancy for the Premises allowing for general office use, or would unreasonably and materially affect the safety of Tenant's employees or create a significant health hazard for Tenant's employees. If any changes are required to areas of the Project that are subject to Landlord's Repair Obligations or Landlord's Insured Property as a result of Tenant's Alterations or use of the Premises for non-general office use or Tenant's use of the Premises with an above-standard occupancy density, then Landlord shall make such changes at Tenant's sole cost and expense, including Landlord's standard supervision fee (or, at Landlord's election, Tenant shall not be permitted to proceed with the Alterations, or use of the Premises that has or will trigger such changes). Landlord shall be permitted to include in Operating Expenses any costs or expenses incurred by Landlord under this Article 24 to the extent not prohibited by the terms of Article 4 above.



24.3 **Certified Access Specialist.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: “A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.” In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (i) any CASp inspection requested by Tenant shall be conducted, at Tenant’s sole cost and expense, by a CASp designated by Landlord, subject to Landlord’s reasonable rules and requirements; and (ii) Tenant’s and Landlord’s respective obligations for making any improvements or repairs to correct violations of construction-related accessibility standards shall be as set forth in Sections 24.1 and 24.2 above; and (iii) if anything done by or for Tenant in its use or occupancy of the Premises shall require any improvements or repairs to the Building or Project (outside the Premises) to correct violations of construction-related accessibility standards, then Tenant shall reimburse Landlord upon demand, as Additional Rent, for the cost to Landlord of performing such improvements or repairs.

24.4 **First Source Hiring Program.** Tenant has been informed by Landlord that there is a City-wide “First Source Hiring Program” (FSHP) (adopted by the City and County of San Francisco on August 3, 1998, Ordinance No. 264-98; codified at San Francisco Administrative Code Sections 83.1-83.1(8)). Tenant hereby acknowledges that its activities at the Premises and the Project may be subject to the FSHP. Accordingly, Tenant shall, at Tenant’s sole cost and expense, comply with any provisions of the FSHP that are applicable to the Premises or any construction in, or use or development of, the Premises by Tenant.

**ARTICLE 25**

**LATE CHARGES**

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord’s designee when due, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount plus any attorneys’ fees incurred by Landlord by reason of Tenant’s failure to pay Rent and/or other charges when due hereunder; provided, however, with regard to the first such failure in any twelve (12) month period, Landlord will waive such late charge to the extent Tenant cures such failure within five (5) business days following Tenant’s receipt of written notice from Landlord that the same was not received when due. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord’s other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord’s remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after the date they are due shall bear interest from the date when due until paid at the “Interest Rate.” For purposes of this Lease, the “**Interest Rate**” shall be an annual rate equal to the lesser of (i) the annual “**Bank Prime Loan**” rate cited in the Federal Reserve Statistical Release Publication H.15(519), published weekly (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published), plus four (4) percentage points, and (ii) the highest rate permitted by applicable law.



## ARTICLE 26

### LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT

26.1 **Landlord's Cure.** All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 **Tenant's Reimbursement.** Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant's defaults pursuant to the provisions of Section 26.1; (ii) sums equal to all Losses referred to in Article 10 of this Lease; and (iii) sums equal to all reasonable expenditures made and obligations incurred by Landlord in collecting or attempting to collect the Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all reasonable legal fees and other amounts so expended. Tenant's obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.

## ARTICLE 27

### ENTRY BY LANDLORD

Landlord reserves the right at all reasonable times (during Building Hours with respect to items (i) and (ii) below) and upon at least twenty-four (24) hours prior notice to Tenant (except in the case of an emergency) to enter the Premises to (i) inspect them; (ii) show the Premises to prospective purchasers, or to current or prospective mortgagees, ground or underlying lessors or insurers, or to prospective tenants (provided that Landlord agrees that except in the event (a) Event of Default is then occurring under this Lease, (b) Landlord and Tenant are negotiating for or have agreed to an early termination of this Lease or Landlord intends to relocate Tenant, or (c) Landlord and Tenant otherwise mutually agree to the contrary, Landlord shall not show the Premises to prospective tenants except during the last nine (9) months of the then current Lease Term; (iii) post notices of nonresponsibility; or (iv) alter, improve or repair the Premises or the Building, or for structural alterations, repairs or improvements to the Building or the Building's systems and equipment. Notwithstanding anything to the contrary contained in this Article 27, Landlord may enter the Premises at any time to (A) perform services required of Landlord, including janitorial service; (B) take possession due to any breach of this Lease in the manner provided herein; and (C) perform any covenants of Tenant which Tenant fails to perform. Landlord may make any such entries without the abatement of Rent, except as otherwise provided in this Lease, and may take such reasonable steps as required to accomplish the stated purposes; provided, however, except for (x) emergencies, (y) repairs, alterations, improvements or additions required by governmental or quasi-governmental authorities or court order or decree, or (z) repairs which are the obligation of Tenant hereunder, any such entry shall be performed in a manner so as not to unreasonably interfere with Tenant's use of the Premises and shall be performed after normal business hours if reasonably practical. With respect to items (y) and (z) above, Landlord shall use commercially reasonable efforts to not materially interfere with Tenant's use of, or access to, the Premises. Tenant hereby waives any Losses for any injuries or inconvenience to or interference with Tenant's business, lost profits, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the above purposes, Landlord shall at all times have a key with which to unlock all the doors in the Premises, excluding Tenant's vaults, safes and special security areas designated in advance by Tenant. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations except as otherwise expressly agreed to be performed by Landlord herein. Except in the case of an emergency, Tenant shall be entitled to have an employee of Tenant accompany the person(s) entering the Premises, provided Tenant makes such employee available at the time Landlord or such other party desires to enter



the Premises, and, except in the case of an emergency, Landlord shall use commercially reasonable efforts to comply with Tenant's reasonable security measures of which Landlord is notified in advance in writing which may include requiring that the person(s) entering the Premises and any third parties (such as prospective lenders, purchasers or tenants) execute Tenant's standard confidentiality agreement upon sign-in to the Premises, provided Tenant makes such confidentiality agreement available at the time Landlord or such other party desires to enter the Premises, and further provided that such confidentiality agreement is in a standard form that Tenant requires all non-employee entrants to the Premises to execute prior to entry to the Premises and is on commercially reasonable terms. If Tenant requires a confidentiality agreement from any such party requiring access to space, Landlord shall not be responsible for any delays that occur in Landlord's response to Tenant's request for repairs or services. Nothing in the foregoing shall prohibit Landlord from accessing the Premises with a third party without such an agreement in an event of emergency or, following a reasonable period in which Landlord allows Tenant to seek such an agreement, to the extent reasonably necessary to perform maintenance and repairs to the Premises and the Project.

## **ARTICLE 28**

### **TENANT PARKING**

Tenant shall be entitled to rent, on a monthly basis throughout the Lease Term, commencing on the Lease Commencement Date, the amount of unreserved parking passes set forth in Section 9 of the Summary, which parking passes shall pertain to the Project parking structure. During the Lease Term and subject to availability, if Tenant desires to rent additional parking passes (the "**Additional Passes**"), Tenant may request upon no less than thirty (30) days prior written notice to Landlord, to rent unreserved parking passes in the Project parking structure on a month to month basis at Landlord's then prevailing rates for such parking passes; provided that the foregoing shall not be construed as any guaranty that parking passes shall be available for Tenant's use. In the event that, due to unavailability of parking passes, Landlord is unable to provide Tenant with such Additional Passes for rent or if Landlord requires such Additional Passes for other users of the Project parking structure at any time, the unavailability of such Additional Passes shall not subject Landlord to any liability for any loss or damage resulting therefrom or entitle Tenant to any credit, abatement or adjustment of Rent or other sums payable under this Lease. Either Landlord or Tenant may terminate the use of such Additional Passes by providing no less than thirty (30) days prior written notice to the other party. Tenant shall pay to Landlord (or its designee) for the parking passes rented by Tenant on a monthly basis at the prevailing rate charged from time to time at the location of such parking passes. In addition to any fees that may be charged to Tenant in connection with its parking of automobiles in the Project parking structure, Tenant shall be responsible for the full amount of any taxes imposed by any governmental authority in connection with the renting of such parking passes by Tenant or the use of the parking facility by Tenant. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located, including any sticker or other identification system established by Landlord, Tenant's cooperation in seeing that Tenant's employees and visitors also comply with such rules and regulations and no Event of Default is then occurring under this Lease. Landlord specifically reserves the right to change the size, configuration, design, layout and all other aspects of the Project parking facility at any time and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, close-off or restrict access to the Project parking facility for purposes of permitting or facilitating any such construction, alteration or improvements. Landlord may delegate its responsibilities hereunder to a parking operator in which case such parking operator shall have all the rights of control attributed hereby to the Landlord. The parking passes rented by Tenant pursuant to this Article 28 are provided to Tenant solely for use by Tenant's own personnel and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant without Landlord's prior approval.

## **ARTICLE 29**

### **MISCELLANEOUS PROVISIONS**

29.1 **Terms; Captions.** The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each



case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

29.2 **Binding Effect**. Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

29.3 **No Air Rights**. No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises is temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease.

29.4 **Modification of Lease**. Should any current or prospective mortgagee or ground lessor for the Building or Project require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) days following the request therefor.

29.5 **Transfer of Landlord's Interest**. Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Project or Building and in this Lease, and Tenant agrees that in the event of any such transfer (including the transfer by Landlord of the Security Deposit or L-C (if applicable) to such transferee), Landlord shall automatically be released from all liability under this Lease and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder after the date of transfer and such transferee shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any security deposit or letter of credit, and Tenant shall attorn to such transferee. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

29.6 **Prohibition Against Recording or Publication**. Neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded or otherwise published by Tenant or by anyone acting through, under or on behalf of Tenant.

29.7 **Landlord's Title**. Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties**. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Application of Payments**. Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect.

29.10 **Time of Essence**. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity**. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby,

and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto. Tenant agrees that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the physical condition of the Building, the Project, the land upon which the Building or the Project are located, or the Premises, or the expenses of operation of the Premises, the Building or the Project, or any other matter or thing affecting or related to the Premises, except as herein expressly set forth in the provisions of this Lease.

29.13 **Landlord Exculpation.** The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises shall be limited solely and exclusively to an amount which is equal to the lesser of (a) the interest of Landlord in the Building or (b) the equity interest Landlord would have in the Building if the Building were encumbered by third-party debt in an amount equal to eighty percent (80%) of the value of the Building (as such value is determined by Landlord), provided that in no event shall such liability extend to any insurance proceeds received by Landlord or the Landlord Parties in connection with the Project, Building or Premises or any sales proceeds received by Landlord or the Landlord Parties in connection with the Project, Building or Premises after distribution of same to any partner, member, or shareholder of Landlord or any other third party. Neither Landlord, nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

29.14 **Entire Agreement.** It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto (including, without limitation, any confidentiality agreement, letter of intent, request for proposal, or similar agreement previously entered into between Landlord and Tenant in anticipation of this Lease) or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added except in writing signed by the parties hereto.

29.15 **Right to Lease.** Landlord reserves the absolute right to effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Project. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building or Project.

29.16 **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease and except as to Tenant's obligations under Articles 5 and 24 of this Lease (collectively, a "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.



29.17 **Waiver of Redemption by Tenant.** Tenant hereby waives, for Tenant and for all those claiming under Tenant, any and all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

29.18 **Notices.** All notices, demands, statements or communications (collectively, "Notices") given or required to be given by either party to the other hereunder shall be in writing, shall be (A) delivered by a nationally recognized overnight courier, or (B) delivered personally, or (C) delivered via email transmission, so long as such transmission is followed within one (1) business day by delivery utilizing one of the methods described in clauses (A) or (B) above. Any such Notice shall be delivered (i) to Tenant at the appropriate address or email address (as applicable) set forth in Section 10 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord; or (ii) to Landlord at the addresses or email address (as applicable) set forth in Section 11 of the Summary, or to such other firm or to such other place as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given on the date of receipted delivery, of refusal to accept delivery, or when delivery is first attempted but cannot be made due to a change of address for which no Notice was given, or (for notices sent via email) upon transmission, if given before 5:00 p.m. Pacific time on a business day, but if such email is not given before 5:00 p.m. Pacific time on a business day, then the Notice will be deemed given on the next business day. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease by registered or certified mail, and such mortgagee or ground or underlying lessor shall be given a reasonable opportunity to cure such default prior to Tenant's exercising any remedy available to Tenant. The party delivering Notice shall use commercially reasonable efforts to provide a courtesy copy of each such Notice to the receiving party via electronic mail.

29.19 **Joint and Several.** If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.20 **Authority.** If Tenant is a corporation, trust or partnership, Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so. In such event, Tenant shall, within ten (10) days after Landlord's written request in connection with Tenant's execution and delivery of this Lease and any amendment or modification to this Lease or as otherwise may be reasonable required by Landlord, deliver to Landlord satisfactory evidence of such authority ("**Evidence of Authority**") and, if a corporation, upon demand by Landlord, also deliver to Landlord satisfactory evidence of (i) good standing in Tenant's state of incorporation and (ii) qualification to do business in California. Landlord acknowledges and agrees that Tenant shall not be required to provide more than one (1) Evidence of Authority for this Lease, or for each such amendment or modification or other agreement pertaining to this Lease or for any assignment agreement, sublease or other documentation pertaining to a Transfer; and that for purposes of Tenant's execution of this Lease, the Evidence of Authority shall be a corporate resolution of Tenant.

29.21 **Attorneys' Fees.** In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

29.22 **Governing Law; WAIVER OF TRIAL BY JURY.** This Lease shall be construed and enforced in accordance with the laws of the State of California. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN THE STATE OF CALIFORNIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE,

OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF BASE RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.

29.23 **Submission of Lease.** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of, option for or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

29.24 **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 12 of the Summary (the “**Brokers**”), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Landlord shall pay the Brokers pursuant to the terms of separate commission agreements. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all Losses with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party.

29.25 **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord’s expense or to any setoff of the Rent or other amounts owing hereunder against Landlord, except to the extent that abatement of Rent is expressly permitted under the terms of this Lease.

29.26 **Project or Building Name and Signage.** Landlord shall have the right at any time to change the name of the Project or Building and to install, affix and maintain any and all signs on the exterior and on the interior of the Project or Building as Landlord may, in Landlord’s sole discretion, desire. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.27 **Counterparts.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

29.28 **Confidentiality; Press Releases.** The content of this Lease and any related amendments, agreements and documents are confidential information. Landlord and Tenant shall keep such information strictly confidential and shall not disclose such confidential information to any person or entity other than (i) such party’s respective financial, legal, space planning and construction consultants, and such party’s parent, subsidiary or other affiliated companies, their partners, lenders, banks, auditors, underwriters, and attorneys and similar professionals, (ii) as may be required to enforce the provisions of this Lease, or (iii) as may be required to comply with Applicable Laws. In addition, notwithstanding the foregoing or anything to the contrary herein, Landlord shall be entitled to (a) disclose information relating to this Lease to the extent necessary to comply with the disclosure or regulatory requirements of the S.E.C., IRS or similar entities, or in connection with other S.E.C., IRS or other regulatory filings customarily made by publicly traded REIT entities; (b) disclose information relating to this Lease on earnings calls and/or at investor meetings as customarily disclosed by publicly traded REIT entities; and (c) issue press releases with respect to the fact that this Lease has been entered into, the size and location of the Premises, the length of term, and the identity of Tenant (among other information commonly found in press releases announcing new lease transactions). In addition, notwithstanding the foregoing or anything to the contrary herein, so long as Tenant is publicly traded on an over-the-counter stock exchange, Tenant shall be entitled to (x) disclose information relating to this Lease to the extent necessary to comply with the disclosure or regulatory requirements of the S.E.C., IRS or similar entities, or in connection with other S.E.C., IRS or other regulatory filings customarily made by publicly traded companies; and (y)



disclose information relating to this Lease on earnings calls and/or at investor meetings as customarily disclosed by publicly traded companies.

29.29 **Transportation Management.** Tenant shall fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

29.30 **Building Renovations.** It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein. However, Tenant hereby acknowledges that Landlord is currently renovating or may during the Lease Term renovate, improve, alter, or modify (collectively, the “**Renovations**”) the Project, the Building and/or the Premises including without limitation the parking structure, common areas, systems and equipment, roof, and structural portions of the same, which Renovations may include, without limitation, (i) installing sprinklers in the Building common areas and tenant spaces, (ii) modifying the common areas and tenant spaces to comply with applicable laws and regulations, including regulations relating to the physically disabled, seismic conditions, and building safety and security, and (iii) installing new floor covering, lighting, and wall coverings in the Building common areas, and in connection with any Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in the Building, limit or eliminate access to portions of the Project, including portions of the common areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Tenant hereby agrees that such Renovations and Landlord’s actions in connection with such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent. Except in the case of an emergency, Landlord shall use commercially reasonable efforts to minimize interference with Tenant’s use of and access to the Premises in connection with the performance of any Renovations. Landlord shall have no responsibility or for any reason be liable to Tenant for any direct or indirect injury to or interference with Tenant’s business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant’s personal property or improvements resulting from the Renovations or Landlord’s actions in connection with such Renovations, or for any inconvenience or annoyance occasioned by such Renovations or Landlord’s actions.

29.31 **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless from and against any Losses arising from Tenant’s breach of this warranty and representation.

29.32 **Communications and Computer Lines.** Tenant may install, maintain, replace, remove or use any communications or computer wires and cables (collectively, the “**Lines**”) at the Project in or serving the Premises, provided that (i) Tenant shall obtain Landlord’s prior written consent, use Landlord’s designated contractor for provision of cabling and riser management services (or, if Landlord does not have a designated contractor, then an experienced and qualified contractor reasonably approved in writing by Landlord), and comply with all of the other provisions of Articles 7 and 8 of this Lease, (ii) an acceptable number of spare Lines and space for additional Lines shall be maintained for existing and future occupants of the Project, as determined in Landlord’s reasonable opinion, (iii) the Lines therefor (including riser cables) shall be (x) appropriately insulated to prevent excessive electromagnetic fields or radiation, (y) surrounded by a protective conduit reasonably acceptable to Landlord, and (z) identified in accordance with the “**Identification Requirements**,” as that term is set forth hereinbelow, (iv) any new or existing Lines servicing the Premises shall comply with all applicable governmental laws and regulations, (v) as a condition to permitting the installation of new Lines, Tenant shall remove existing Lines located in or serving the Premises and repair any damage in connection with such removal, and (vi) Tenant shall pay all costs in connection therewith. All Lines shall be clearly marked with adhesive plastic labels (or plastic tags attached to such Lines with wire) to show Tenant’s name, suite number, telephone number and the name of the person to contact in the case of an emergency (A) every four feet (4’) outside the Premises (specifically including, but not limited to, the electrical room risers and other Common Areas), and (B) at the Lines’ termination point(s) (collectively, the “**Identification Requirements**”). Upon the expiration of the Lease Term, or immediately following any earlier termination of this Lease, Tenant shall, at Tenant’s sole cost and expense, remove all Lines installed by Tenant, and repair any damage caused by such removal. In the event that Tenant fails to complete such removal and/or fails to repair any damage caused by the

removal of any Lines, Landlord may do so and may charge the cost thereof to Tenant. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time (1) are in violation of any Applicable Laws, (2) are inconsistent with then-existing industry standards (such as the standards promulgated by the National Fire Protection Association (e.g., such organization's "2002 National Electrical Code")), or (3) otherwise represent a dangerous or potentially dangerous condition.

29.33 **Hazardous Materials.** Tenant: (i) except for Permitted Chemicals (as defined below), shall not cause or suffer to occur, the release, discharge, escape or emission of any Hazardous Materials at, upon, under or within the Project; (ii) shall not engage in activities at the Project that could result in, give rise to, or lead to the imposition of liability upon Tenant or Landlord or the creation of a lien upon the Project; (iii) shall notify Landlord promptly following receipt of any knowledge with respect to any actual release, discharge, escape or emission (whether past or present) of any Hazardous Materials at, upon, under or within the Premises; and (iv) shall promptly forward to Landlord copies of all orders, notices, permits, applications and other communications and reports in connection with any release, discharge, escape or emission of any Hazardous Materials at, upon, under or within the Premises or any contiguous or adjacent premises.

29.33.1 **Definitions.** "**Hazardous Material(s)**" shall mean any solid, liquid or gaseous substance or material that is described or characterized as a toxic or hazardous substance, waste, material, pollutant, contaminant or infectious waste, or any substance or material that in certain specified quantities would be injurious to the public health or welfare, or words of similar import, in any of the "Environmental Laws," as defined below, or any other words which are intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity or reproductive toxicity and includes, without limitation, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), petroleum products, polychlorinated biphenyls, urea formaldehyde, radon gas, nuclear or radioactive matter, medical waste, soot, vapors, fumes, acids, alkalis, chemicals, microbial matters (such as molds, fungi or other bacterial matters), biological agents and chemicals which may cause adverse health effects, including but not limited to, cancers and /or toxicity. "**Environmental Laws**" shall mean any and all federal, state, local or quasi-governmental laws (whether under common law, statute or otherwise), ordinances, decrees, codes, rulings, awards, rules, regulations or guidance or policy documents now or hereafter enacted or promulgated and as amended from time to time, in any way relating to (i) the protection of the environment, the health and safety of persons (including employees), property or the public welfare from actual or potential release, discharge, escape or emission (whether past or present) of any Hazardous Materials or (ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Materials.

29.33.2 **Permitted Chemicals.** Notwithstanding the foregoing, Tenant may use, store and properly dispose of commonly available household cleaners and chemicals, in reasonable quantities, to maintain the Premises and Tenant's routine office operations (such as printer toner and copier toner) (collectively, the "**Permitted Chemicals**"). Landlord and Tenant acknowledge that any or all of the Permitted Chemicals described in this paragraph may constitute Hazardous Materials. However, Tenant may use, store and dispose of same, provided that in doing so, all Permitted Chemicals are stored, properly packaged and labeled, disposed of and/or used in accordance with applicable Environmental Laws, and provided that Tenant fully complies with all Environmental Laws and TCC's of this Article 29 and of Article 24 above.

29.33.3 **Tenant Hazardous Materials.** On or before the Lease Commencement Date and on each annual anniversary of the Lease Commencement Date thereafter, as well as at any other time following Tenant's receipt of a reasonable request from Landlord, Tenant shall deliver to Landlord a list of all Hazardous Materials anticipated to be used by Tenant in the Premises and the quantities thereof. At any time following Tenant's receipt of a request from Landlord, Tenant shall promptly complete an "environmental questionnaire" using the form then- provided by Landlord.



29.33.4 **Landlord's Right of Environmental Audit.** Landlord may, upon reasonable notice to Tenant, be granted access to and enter the Premises no more than once annually to perform or cause to have performed an environmental inspection, site assessment or audit. Such environmental inspector or auditor may be chosen by Landlord, in its sole discretion, and be performed at Landlord's sole expense. To the extent that the report prepared upon such inspection, assessment or audit, indicates the presence of Hazardous Materials in violation of Environmental Laws, or provides recommendations or suggestions to prohibit the release, discharge, escape or emission of any Hazardous Materials at, upon, under or within the Premises, or to comply with any Environmental Laws, Tenant shall promptly, at Tenant's sole expense, comply with such recommendations or suggestions, including, but not limited to performing such additional investigative or subsurface investigations or remediation(s) as recommended by such inspector or auditor. Notwithstanding the above, if at any time, Landlord has actual notice or reasonable cause to believe that Tenant has violated, or permitted any violations of any Environmental Law, then Landlord will be entitled to perform its environmental inspection, assessment or audit at any time, notwithstanding the above mentioned annual limitation, and Tenant must reimburse Landlord for the cost or fees incurred for such as Additional Rent.

29.33.5 **Indemnification.** Tenant shall indemnify, defend, protect and hold harmless the Landlord Parties from and against any Losses resulting directly or indirectly from any use, presence, removal or disposal of any Hazardous Materials or breach of any provision of this section, to the extent such Losses were a result of actions caused or permitted by Tenant or any Tenant Party. Landlord agrees to indemnify, defend, protect and hold harmless the Tenant Parties from and against any Losses resulting directly or indirectly from any use, presence, removal or disposal of any Hazardous Materials to the extent such Losses were a result of actions caused or knowingly permitted by Landlord or a Landlord Party.

#### 29.34 **Office and Communications Services.**

29.34.1 **The Provider.** Landlord has advised Tenant that certain office and communications services (which may include, without limitation, cable or satellite television service) may be offered to tenants of the Building by a concessionaire (which may or may not have exclusive rights to offer such services in the Building) under contract to Landlord ("**Provider**"). Tenant shall be permitted to contract with Provider for the provision of any or all of such services on such terms and conditions as Tenant and Provider may agree.

29.34.2 **Other Terms.** Tenant acknowledges and agrees that: (i) Landlord has made no warranty or representation to Tenant with respect to the availability of any such services, or the quality, reliability or suitability thereof; (ii) the Provider is not acting as the agent or representative of Landlord in the provision of such services, and Landlord shall have no liability or responsibility for any failure or inadequacy of such services, or any equipment or facilities used in the furnishing thereof, or any act or omission of Provider, or its agents, employees, representatives, officers or contractors; (iii) Landlord shall have no responsibility or liability for the installation, alteration, repair, maintenance, furnishing, operation, adjustment or removal of any such services, equipment or facilities; and (iv) any contract or other agreement between Tenant and Provider shall be independent of this Lease, the obligations of Tenant hereunder, and the rights of Landlord hereunder, and, without limiting the foregoing, no default or failure of Provider with respect to any such services, equipment or facilities, or under any contract or agreement relating thereto, shall have any effect on this Lease or give to Tenant any offset or defense to the full and timely performance of its obligations hereunder, or entitle Tenant to any abatement of rent or additional rent or any other payment required to be made by Tenant hereunder, or constitute any accrual or constructive eviction of Tenant, or otherwise give rise to any other claim of any nature against Landlord.

29.35 **Water Sensors.** Tenant shall, at Tenant's sole cost and expense, be responsible for promptly installing web-enabled wireless water leak sensor devices designed to alert the Tenant on a twenty-four (24) hour seven (7) day per week basis if a water leak is occurring in the Premises (which water sensor device(s) located in the Premises shall be referred to herein as "**Water Sensors**"). The Water Sensors shall be installed in any areas in the Premises where water is utilized (such as sinks, pipes, faucets, water heaters, coffee machines, ice machines, water dispensers and water fountains), and in locations that may be designated from time to time by Landlord (the "**Sensor Areas**"). In connection with any Alterations affecting or relating to any Sensor Areas, Landlord may require Water Sensors to be installed or updated in Landlord's sole and absolute discretion. With respect to the installation of any such Water Sensors, Tenant shall obtain Landlord's prior written consent, use an experienced and qualified contractor reasonably designated by Landlord, and comply with all of the other provisions of Article 8 of this Lease. Tenant shall, at Tenant's



sole cost and expense, pursuant to Article 7 of this Lease keep any Water Sensors located in the Premises (whether installed by Tenant or someone else) in good working order, repair and condition at all times during the Lease Term and comply with all of the other provisions of Article 7 of this Lease. Notwithstanding any provision to the contrary contained herein, Landlord has neither an obligation to monitor, repair or otherwise maintain the Water Sensors, nor an obligation to respond to any alerts it may receive from the Water Sensors or which may be generated from the Water Sensors. Upon the expiration of the Lease Term (so long as Landlord gives written notice to Tenant at least thirty (30) days prior to the expiration of the Lease Term), or immediately following any earlier termination of this Lease, Landlord reserves the right to require Tenant, at Tenant's sole cost and expense, to remove all Water Sensors installed by Tenant, and repair any damage caused by such removal; provided, however, if the Landlord does not require the Tenant to remove the Water Sensors as contemplated by the foregoing, then Tenant shall leave the Water Sensors in place together with all necessary user information such that the same may be used by a future occupant of the Premises (e.g., the Water Sensors shall be unblocked and ready for use by a third-party). If Tenant is required to remove the Water Sensors pursuant to the foregoing and Tenant fails to complete such removal and/or fails to repair any damage caused by the removal of any Water Sensors, Landlord may do so and may charge the cost thereof to Tenant.

29.36 **No Discrimination.** Tenant covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through Tenant, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, sex, religion, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, or enjoyment of the Premises, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the Premises.

29.37 **Sustainability and Wellness.**

29.37.1 **Sustainability and Wellness Requirements.** Landlord's ownership and operation of the Project is informed by an awareness of best practices within the commercial real estate industry concerning sustainability and wellness of the Building and its occupants. In connection therewith, Landlord may, in its sole and absolute discretion, (i) implement a green cleaning program, a recycling program (which may include, without limitation, a requirement that Tenant separate waste appropriately so that it can be efficiently processed by Landlord's particular recycling contractors), Building wellness program, energy efficiency program, or other standards for efficient operation and management of the Building or Project (collectively, as the same may be updated by Landlord from time to time, "**Sustainability and Wellness Programs**"), and (ii) pursue and/or maintain certification(s) for the Building and/or Project (or any portion thereof) under the U.S. Green Building Council's Leadership in Energy and Environmental Design ("**LEED**"), Fitwel, WELL, and/or ENERGY STAR certification or other applicable certification agency (any of the foregoing, a "**Sustainability and Wellness Certification**"). The Sustainability and Wellness Programs and Sustainability and Wellness Certifications are, collectively, the "**Sustainability and Wellness Initiatives**", and any sustainability and wellness practices and requirements with respect to the Building and/or the Project established by Landlord to implement the Sustainability and Wellness Initiatives are, collectively, as the same may be updated by Landlord from time to time, "**Sustainability and Wellness Requirements**". Nothing contained in this Section 29.37 shall obligate Landlord to incur any costs or expenses that are not otherwise an obligation of Landlord pursuant to the other TCCs of this Lease.

29.37.2 **Tenant's Compliance.** Tenant shall, at Tenant's sole cost and expense, comply with (and cause its employees, vendors, and contractors to comply with) all Sustainability and Wellness Requirements and the terms of any Sustainability and Wellness Initiatives and otherwise cooperate with Landlord in connection with Landlord's efforts in connection therewith, which compliance and cooperation may include, without limitation, (i) Tenant's compliance with certain standards pertaining to the purchase of materials used in connection with the performance of Tenant's Repair Obligations and/or any Alterations undertaken by the Tenant in the Project, and (ii) Tenant sharing with Landlord documentation pertaining to any of Tenant's Repair Obligations, Alterations undertaken by Tenant in the Project, Tenant's billing information pertaining to trash removal and recycling related to Tenant's operations in the Project, and otherwise providing Landlord with any documentation Landlord may need in order to obtain or maintain any Sustainability and Wellness Certification(s). A description of Landlord's then-existing Sustainability and Wellness Initiatives for the Project, and the terms of any Sustainability and Wellness Requirements



will be provided to Tenant upon written request, and any inquiries from Tenant concerning Sustainability and Wellness Requirements or Landlord's sustainability efforts in general may be directed to sustainability@kilroyrealty.com. To the extent Tenant fails to comply with any of Landlord's Sustainability and Wellness Requirements and Sustainability and Wellness Initiatives, Tenant shall be required to pay any reasonable fees or charges incurred by Landlord related to such non-compliance. Notwithstanding anything to the contrary set forth above in this [Section 29.37.2](#) or elsewhere in this Lease, except as required by Applicable Laws, Tenant shall not be required to incur material and unreasonable costs or expenses in complying with any Sustainability and Wellness Requirements to the extent the same are materially in excess of the requirements imposed on tenants of other Comparable Buildings.

29.38 **Utility Billing Information.** In the event that the Tenant is permitted to contract directly for the provision of electricity, gas and/or water services to the Premises with the third-party provider thereof (all in Landlord's sole and absolute discretion), Tenant shall promptly, but in no event more than five (5) business days following its receipt of each and every invoice for such items from the applicable provider, provide Landlord with a copy of each such invoice. Tenant acknowledges that pursuant to California Public Resources Code Section 25402.10 and the regulations adopted pursuant thereto (collectively the "**Energy Disclosure Requirements**"), Landlord may be required to disclose information concerning Tenant's energy usage at the Building to certain third parties, including, without limitation, prospective purchasers, lenders and tenants of the Building (the "**Tenant Energy Use Disclosure**"). Tenant hereby (A) consents to all such Tenant Energy Use Disclosures, and (B) acknowledges that Landlord shall not be required to notify Tenant of any Tenant Energy Use Disclosure. Further, Tenant hereby releases Landlord from any and all losses, costs, damages, expenses and liabilities relating to, arising out of and/or resulting from any Tenant Energy Use Disclosure. The terms of this [Section 29.38](#) shall survive the expiration or earlier termination of this Lease.

29.39 **Green Cleaning/Recycling.** To the extent a "green cleaning program" and/or a recycling program is implemented by Landlord in the Building and/or Project (each in Landlord's sole and absolute discretion), Tenant shall, at Tenant's sole cost and expense, comply with the provisions of each of the foregoing programs (e.g., Tenant shall separate waste appropriately so that it can be efficiently processed by Landlord's particular recycling contractors). To the extent Tenant fails to comply with any of Landlord's recycling programs contemplated by the foregoing, Tenant shall be required to pay any contamination charges related to such non-compliance.

29.40 **Shuttle Service.** Subject to the provisions of this [Section 29.40](#), so long as Tenant is not in default under this Lease, and so long as Landlord, in Landlord's sole and absolute discretion, permits a shuttle service (the "**Shuttle Service**") to operate at the Project, Tenant's employees ("**Shuttle Service Riders**") shall be entitled to use the Shuttle Service operated at the Project. The use of the Shuttle Service shall be subject to the reasonable rules and regulations (including rules regarding hours of use) established from time to time by Landlord, in its sole and absolute discretion, and/or the operator of the Shuttle Service. Landlord and Tenant acknowledge that the use of the Shuttle Service by the Shuttle Service Riders shall be at their own risk and that the terms and provisions of [Section 10.1](#) of this Lease shall apply to Tenant and the Shuttle Service Rider's use of the Shuttle Service. The costs of operating, maintaining and repairing the Shuttle Service shall be included as part of Operating Expenses. Tenant acknowledges that the provisions of this [Section 29.40](#) shall not be deemed to be a representation by Landlord that Landlord shall continuously maintain the Shuttle Service (or any other shuttle service) throughout the Lease Term, and Landlord shall have the right, at Landlord's sole discretion, to expand, contract, eliminate or otherwise modify all Shuttle Services provided by it. Landlord or the operator of the Shuttle Service shall have a right to charge a fee to the users of the Shuttle Service. No expansion, contraction, elimination or modification of any or all Shuttle Services, and no termination of Tenant's or the Shuttle Service Rider's rights to the Shuttle Service shall entitle Tenant to an abatement or reduction in Rent, constitute a constructive eviction, or result in an event of default by Landlord under this Lease.

29.41 **Open-Ceiling Plan.** In the event that the Premises has an "open ceiling plan", then Landlord and third parties leasing or otherwise using/managing or servicing space on the floor immediately above the Premises shall have the right to install, maintain, repair and replace mechanical, electrical and plumbing fixtures, devices, piping, ductwork and all other improvements through the floor above the Premises (which may penetrate through the ceiling of the Premises and be visible within the Premises during the course of construction and upon completion thereof) (as applicable, the "**Penetrating Work**"), as Landlord may determine in Landlord's sole and absolute discretion and with no approval rights being afforded to Tenant with respect thereto. Moreover, there shall be no obligation by Landlord or any such third party to enclose or otherwise screen any of such Penetrating Work from view within the Premises,

whether during the course of construction or upon completion thereof. Since Tenant is anticipated to be occupying the Premises at the time the Penetrating Work is being performed, Landlord agrees that it shall (and shall cause third parties to) use commercially reasonable efforts to perform the Penetrating Work in a manner so as to attempt to minimize interference with Tenant's use of the Premises; provided, however, such Penetrating Work may be performed during normal business hours, without any obligation to pay overtime or other premiums. Tenant hereby acknowledges that, notwithstanding Tenant's occupancy of the Premises during the performance of any such Penetrating Work, Tenant hereby agrees that the performance of such Penetrating Work shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of rent. Neither Landlord nor any of the Landlord Parties or any third parties performing the Penetrating Work shall be responsible for any direct or indirect injury to or interference with Tenant's business arising from the performance of such Penetrating Work, nor shall Tenant be entitled to any compensation or damages from Landlord or any of the Landlord Parties or any third parties performing the Penetrating Work for loss of the use of the whole or any part of the Premises or of Tenant's personal property or improvements resulting from the performance of the Penetrating Work, or for any inconvenience or annoyance occasioned by the Penetrating Work. In addition, Tenant hereby agrees to promptly and diligently cooperate with Landlord and any of the third parties performing the Penetrating Work in order to facilitate the applicable party's performance of the particular Penetrating Work in an efficient and timely manner.

29.42 **Prohibited Persons; Foreign Corrupt Practices Act and Anti-Money Laundering.** Neither Tenant nor any of its affiliates, nor any of their respective members, partners or other equity holders, and none of their respective officers, directors or managers is, nor prior to or during the Lease Term, will they become a person or entity with whom U.S. persons or entities are restricted from doing business under (a) the Patriot Act (as defined below), (b) any other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("OFAC") (including any "blocked" person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other person or entity named on OFAC's Specially Designated Blocked Persons List) or (c) any other U.S. statute, Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action (collectively, "Prohibited Persons"). Prior to and during the Lease Term, Tenant, and to Tenant's knowledge, its employees and any person acting on its behalf have at all times fully complied with, and are currently in full compliance with, the Foreign Corrupt Practices Act of 1977 and any other applicable anti-bribery or anti-corruption laws. Tenant is not entering into this Lease, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. As used herein, "Patriot Act" shall mean the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and all other statutes, orders, rules and regulations of the U.S. government and its various executive departments, agencies and offices interpreting and implementing the Patriot Act.

29.43 **Counterparts; Electronic Signatures.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Landlord and Tenant agree that (i) this Lease may be signed electronically, (ii) any electronic signatures on this Lease shall have the same validity, enforceability, and admissibility as handwritten signatures, and (iii) the electronic record of this signed Lease shall be legally binding to the same extent as a paper copy bearing handwritten signatures.

29.44 **Bicycle Storage Area.** Subject to the provisions of this Section 29.44, so long as this Lease remains in effect and Landlord, in Landlord's sole and absolute discretion, provides a storage area for bicycles in the Project parking structure for tenants of the Building (the "Bicycle Storage Area"), Tenant's employees shall be entitled to use the unsecured Bicycle Storage Area on an un-reserved, first-come, first served basis during the Lease Term. The use of the Bicycle Storage Area shall be subject to the rules and regulations (including rules regarding hours of use) established from time to time by Landlord and/or by the operator of the parking structure, and shall be further subject to compliance with the Building's standard security procedures. Bicycles shall not be stored overnight in the Bicycle Storage Area. Landlord may refuse to permit any person who violates such rules and regulations to use the Bicycle Storage Area, and any violation of the rules and regulations shall subject the bicycle to removal from the Bicycle Storage Area. Notwithstanding the foregoing, in the event Landlord determines in its sole discretion that the area in which the Bicycle Storage Area is located is needed for another purpose, Landlord may remove the Bicycle Storage Area and cease to provide such amenity for tenants' use. In addition, Landlord shall have the right to relocate, from time to time, the location of the Bicycle Storage Area or reconfigure the Bicycle Storage Area. Tenant acknowledges that the Bicycle Storage Area may be closed entirely or in part in order to make repairs or perform maintenance

services, or to alter, modify or renovate the Building or the Bicycle Storage Area, if required by casualty, strike, condemnation, act of God, governmental law or requirement or other reason beyond Landlord's reasonable control or for any other reason whatsoever. No expansion, contraction, elimination, unavailability or modification of the Bicycle Storage Area, shall entitle Tenant to an abatement or reduction in Rent or constitute a constructive eviction or an event of default by Landlord under this Lease. Tenant hereby acknowledges that the Bicycle Storage Area is unsecured and that the use of the Bicycle Storage Area shall be at the sole risk of Tenant and any Tenant Parties and neither Landlord nor any Landlord Parties shall have any liability for any personal injury or damage to or theft of any bicycles or other property occurring in, on or about the Bicycle Storage Area or otherwise in connection with any use of the Bicycle Storage Area by Tenant or any Tenant Parties. Tenant hereby waives all claims against Landlord and the Landlord Parties relating to the Bicycle Storage Area and the use thereof by Tenant or any Tenant Parties. Tenant's indemnity obligations pursuant to Section 10.1 of this Lease shall apply to the use of the Bicycle Storage Area by Tenant or any Tenant Parties. The costs of operating, maintaining and repairing the Bicycle Storage Area shall be included as part of Operating Expenses. The right to use the Bicycle Storage Area set forth herein shall be personal to the Original Tenant and any Permitted Transferee Assignee and shall in no event be transferable to any other party.

29.45 **Premises Storage of Bicycles.** Subject to the provisions of this Section 29.45, so long as this Lease remains in effect and there exists no default under this Lease, Tenant's employees may bring to and store within the Premises up to twenty (20) non-motorized, standard and customary bicycles; provided, however, that if Landlord permanently removes the Bicycle Storage Area and ceases to provide such amenity for tenants' use for any reason other than any violation of the terms of Section 29.44 by Tenant or any Tenant Parties, then Tenant's employees may bring to and store within the Premises up to fifty (50) non-motorized, standard and customary bicycles so long as the storage of such additional bicycles complies with all Applicable Laws including without limitation, applicable fire codes and the terms of this Section 29.45. Such bicycles may only be brought to the Premises by use of the Building's freight elevator and in no event shall bicycles be ridden in the Building or any Common Areas, or brought into the Building's passenger elevators at any time. Tenant's storage of bicycles in the Premises pursuant to this Section 29.45 shall at all times comply with the rules and regulations promulgated by Landlord from time to time and such bicycles shall be stored and/or kept in designated areas as reasonably required by Landlord and in compliance with all Applicable Laws. Such bicycle storage within the Premises shall be reasonable, organized and safe, and shall not adversely impact other tenants or occupants of the Building or Landlord's management and operation of the Building. Landlord reserves the right to revoke Tenant's right to store bicycles at the Premises pursuant to this Section 29.45 if Landlord determines that such bicycles are interfering with other tenants' or Landlord's use, occupancy and operation of the Building. Tenant shall be liable for all costs and expenses arising in connection with Tenant's and its employees' bicycle storage at the Premises, including without limitation, any costs incurred by Landlord to repair any damage to or additional cleaning of the Premises, Building or Project caused thereby. Landlord and Tenant acknowledge that the storage of bicycles in the Premises shall be at the sole risk of Tenant and any Tenant Parties and neither Landlord nor any Landlord Parties shall have any liability for any personal injury or damage to or theft of any bicycles or other property occurring in, on or about the Premises or otherwise in connection with any storage of bicycles in the Premises by Tenant or any Tenant Parties. Tenant's indemnity obligations pursuant to Section 10.1 of this Lease shall apply to the storage of bicycles in the Premises hereunder.

29.46 **Roof Decks.** So long as no Event of Default then exists under this Lease and subject to the terms and conditions set forth in Section 29.46.1 below, then during the Lease Term and subject to availability, Tenant shall have the right to (i) hold up to four (4) private events per calendar year of the Lease Term for Tenant's employees and clients at the roof deck (the "**201 Third Street Roof Deck**") of the Building and (ii) hold up to four (4) private events per calendar year of the Lease Term for Tenant's employees and clients at the roof deck (the "**360 Third Street Roof Deck**") of the building located at 360 Third Street, San Francisco, California (the, "**360 Third Street Building**") that is currently owned Landlord's affiliate (together with any other affiliate of Landlord that may at any time during the Lease Term own the 360 Third Street Building, "**Landlord's Affiliate**"). Tenant's right to use the 360 Third Street Roof Deck pursuant to this Section 29.46 shall only apply for so long as Landlord's Affiliate owns the 360 Third Street Building and Landlord and/or Landlord's Affiliate permit tenants of the Building to use the 360 Third Street Roof Deck. The 201 Third Street Roof Deck and 360 Third Street Roof Deck are collectively referred to herein as the "**Roof Decks**".

29.46.1 **Terms of Use.** Tenant shall pay all out of pocket costs incurred by Landlord and/or Landlord's Affiliate for such use of the Roof Decks by Tenant hereunder, including without limitation, janitorial,

security and insurance costs. Tenant shall provide Landlord with not less than thirty (30) days' and no more than sixty (60) days' prior written notice to Landlord of Tenant's request to use of the Roof Decks and Tenant shall comply with the reservation system for the Roof Decks established by Landlord and/or Landlord's Affiliate from time to time. Tenant's use of the Roof Decks shall be further subject to the rules and regulations (including rules regarding hours of use and priorities for the tenants of the 360 Third Street Building, set up and clean up charges, etc.) established from time to time by Landlord and/or Landlord's Affiliate for the Roof Decks. Tenant acknowledges that Landlord or Landlord's Affiliate may from time to time establish a standard license agreement (the "**License Agreement**") with respect to the use of Roof Decks by tenants of the Building. Tenant, upon request of Landlord and as a condition to Tenant's right to use the Roof Decks pursuant to this Section 29.46.1, shall enter into such License Agreement and fully comply with the terms and conditions set forth in the License Agreement. Tenant's waiver and indemnity obligations pursuant to Section 10.1 of this Lease shall apply to Tenant's use of the Roof Decks; provided that for purposes of Section 10.1, Landlord's Affiliate shall be deemed to be a Landlord Party. Tenant's insurance required pursuant to Section 10.3 above shall apply to the use of the Roof Decks by Tenant and any Tenant Parties. In the event that alcohol is served or utilized at the Roof Decks, subject to Applicable Laws, Tenant shall provide Landlord with written notice thereof and obtain and maintain at its expense, host liquor liability insurance or dram shop liability insurance (as applicable) with combined single limits of not less than \$5,000,000 per occurrence and such additional or higher insurance coverage as may be required pursuant to the License Agreement, covering any claims relating to the manufacture, storage, sale, use or giving away of any alcoholic or other intoxicating liquor or beverage, which claims could be asserted against Landlord, Landlord's Affiliate, Tenant, the Building or the 360 Third Street Building. In addition to Landlord and the Landlord Parties, Landlord's Affiliate and any other party designated by Landlord shall be named as an additional insured with respect to Tenant's insurance as required under Section 10.3.1 and this Section 29.46.1 and as a condition to Tenant's use of Roof Decks, Tenant shall provide Landlord with insurance certificates acceptable to Landlord, evidencing that Tenant's insurance required under this Lease and pursuant to the License Agreement covers Tenant's use of the Roof Decks, the Building and the 360 Third Street Building. None of Landlord, any Landlord Parties or Landlord's Affiliate shall have any liability whatsoever with respect to the existence, condition or availability of the Roof Decks for Tenant's use nor shall Landlord, any Landlord Parties or Landlord's Affiliate have any obligation whatsoever to ensure the availability or suitability of the Roof Decks for Tenant's use and Tenant hereby expressly waives all claims against Landlord, the Landlord Parties and Landlord's Affiliate with respect to same. Tenant shall reimburse Landlord for all out-of-pocket costs incurred by Landlord and/or Landlord's Affiliate in connection with Tenant's use of the Roof Decks pursuant to this Section 29.46, which costs shall be paid to Landlord as Additional Rent under this Lease within ten (10) days following Landlord's demand therefor. Tenant acknowledges that the provisions of this Section 29.46 shall not be deemed to be a representation by Landlord that Landlord's Affiliate shall permit the use of the Roof Decks throughout the Lease Term or a guaranty by Landlord that neither Landlord nor the Landlord's Affiliate will not contract, eliminate or otherwise modify the Roof Decks. In addition, at such time as Landlord's Affiliate no longer owns the 360 Third Street Building, the rights of Tenant to use the 360 Third Street Roof Deck set forth herein shall automatically terminate. No expansion, contraction, elimination, unavailability or modification of the Roof Decks, and no termination of or interference with Tenant's rights to the Roof Decks, shall entitle Tenant to an abatement or reduction in Rent or constitute a constructive eviction or a default by Landlord under this Lease. The right to use the Roof Decks pursuant to this Section 29.46 is personal to the Original Tenant and any Permitted Transferee Assignee and shall not be transferable to any other party.

[Signatures follow on next page]



IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

**“LANDLORD”:**

KR 201 THIRD STREET OWNER, LLC,  
a Delaware limited liability company

By: Kilroy Realty Corporation, a  
Maryland corporation

Its: General Partner

By: /s/ John Osmond

Name: John Osmond

Its: EVP, Asset Management

By: /s/ Michael Schmidt

Name: Michael Schmidt

Its: SVP, Leasing - Northern California Region

**“TENANT”:**

AMPLITUDE, INC,  
a Delaware corporation

By: /s/ Elizabeth Fisher

Name: Elizabeth Fisher

Its: General Counsel

**\*NOTE:**

**If Tenant is a California corporation**, then one of the following alternative requirements must be satisfied:

(A) This Lease must be signed by two (2) officers of such corporation: one being the chairman of the board, the president or a vice president, and the other being the secretary, an assistant secretary, the chief financial officer or an assistant treasurer. If one (1) individual is signing in two (2) of the foregoing capacities, that individual must identify the two (2) capacities.

(B) If the requirements of (A) above are not satisfied, then Tenant shall deliver to Landlord evidence in a form reasonably acceptable to Landlord that the signatory(ies) is (are) authorized to execute this Lease.

**If Tenant is a corporation incorporated in a state other than California**, then Tenant shall deliver to Landlord evidence in a form reasonably acceptable to Landlord that the signatory(ies) is (are) authorized to execute this Lease.



**EXHIBIT A**  
**201 THIRD STREET**  
**OUTLINE OF PREMISES**

EXHIBIT A  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT B**

**201 THIRD STREET**

**INTENTIONALLY OMITTED**

EXHIBIT B

-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT C**  
**201 THIRD STREET**  
**NOTICE OF LEASE TERM DATES**

EXHIBIT C  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT D**  
**201 THIRD STREET**  
**RULES AND REGULATIONS**

EXHIBIT D  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT E**  
**201 THIRD STREET**  
**FORM OF TENANT'S ESTOPPEL CERTIFICATE**

EXHIBIT E  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT F**  
**201 THIRD STREET**  
**FORM OF LETTER OF CREDIT**

EXHIBIT F  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT G**  
**201 THIRD STREET**  
**FIRST OFFER SPACE**

EXHIBIT G  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**EXHIBIT H**  
**201 THIRD STREET**  
**MARKET RENT DETERMINATION FACTORS**

EXHIBIT H  
-1-

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



**OFFICE LEASE**  
**KILROY REALTY**  
**201 THIRD STREET**

**KR 201 THIRD STREET OWNER, LLC,**  
a Delaware limited liability company,  
as Landlord,  
and  
**AMPLITUDE, INC.,**  
a Delaware corporation,  
as Tenant.

KILROY REALTY  
201 THIRD STREET  
Amplitude, Inc.



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**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Spenser Skates, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Amplitude, 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 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 and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 7, 2025

By: \_\_\_\_\_  
*/s/ Spenser Skates*  
**Spenser Skates**  
**Chief Executive Officer**  
*(Principal Executive Officer)*



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

In connection with the Quarterly Report of Amplitude, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2025 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, as amended, that:

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

Date: May 7, 2025

By: \_\_\_\_\_ /s/ Spenser Skates  
**Spenser Skates**  
**Chief Executive Officer**  
*(Principal Executive Officer)*

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

In connection with the Quarterly Report of Amplitude, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2025 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, as amended, that:

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

Date: May 7, 2025

By: \_\_\_\_\_  
*/s/ Andrew Casey*  
**Andrew Casey**  
**Chief Financial Officer**  
*(Principal Financial and Accounting Officer)*

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