

Risk Factors Comparison 2023-06-14 to 2022-05-26 Form: 10-K

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You should carefully consider the following risk factors, together with the other information contained in this Annual Report and our other reports and filings made with the SEC, in evaluating our business and prospects. If any of the risks discussed in this Annual Report occur, our business, prospects, liquidity, financial condition and results of operations could be materially and adversely affected, in which case the trading price of our common stock could decline significantly. Some statements in this Annual Report, including statements in the following risk factors, constitute forward- looking statements. Please refer to the section entitled “ Cautionary Statement Concerning Forward- Looking Statements. ” ~~Page Risks 17~~**Risks** Related to Obtaining Broadband Licenses, the Retuning Process and the Use of Our Spectrum Our plans to commercialize our 900 MHz spectrum assets depend on our ability to qualify for and obtain broadband licenses from the FCC in accordance with the requirements of the Report and Order. If we are unable to obtain broadband licenses on favorable terms and on a timely basis, our business, liquidity, results of operations and prospects will be materially adversely affected. Our plans to commercialize our 900 MHz spectrum assets depend on our ability to obtain broadband licenses in accordance with the requirements of the Report and Order ~~approved by the FCC in May 2020, and which became effective on August 17, 2022~~. The Report and Order establishes three general eligibility requirements to obtain a broadband license, which we refer to herein as (i) the “ 50 % Licensed Spectrum Test, ” (ii) the “ 90 % Broadband Segment Test ” and (iii) the “ 240 Channel Requirement. ” We will need to satisfy all eligibility requirements in each county in the United States for which we desire to obtain a broadband license. Under the 50 % Licensed Spectrum Test, we must demonstrate that we hold more than 50 % of the licensed channels in the 900 MHz band in the applicable county. Under the 90 % Broadband Segment Test, we must provide the FCC with a plan demonstrating that we hold, or have agreements with Covered Incumbents for, at least 90 % of the licensed channels in the 6 MHz broadband segment designated by the FCC and within 70 miles of the county boundary. Under the 240 Channel Requirement, we must surrender 6 MHz of broadband or narrowband spectrum (or 240 channels) in the applicable county to the FCC. If we do not have a sufficient number of channels to satisfy any of these eligibility requirements, we will be required to purchase the additional channels from incumbents in privately negotiated transactions, swap our existing channels ~~Page 17 with~~ **with** incumbents (including any required retuning of the incumbent radio systems), demonstrate the ability to protect Covered Incumbents or effectively purchase channels not previously licensed by the FCC by making an Anti- Windfall Payment. The amount of spectrum we will be required to purchase and / or swap and the amount of any Anti- Windfall Payment will vary in each county based on our existing spectrum holdings in such county. Our ability to acquire and / or swap the additional spectrum necessary to secure broadband licenses in a desired county on a timely and cost- effective basis will depend on the incumbents who hold the additional spectrum we need to acquire or swap and their operations that we may need to retune or replace. Obtaining the required spectrum to qualify for broadband licenses may take longer and be more expensive than we currently anticipate. In addition, as discussed in more detail below, incumbents may elect not to sell or swap their existing channels on reasonable terms, or at all, and until we **obtain a license that can satisfy the 90 % Broadband Segment Test license from the FCC**, we will not be able to utilize the Mandatory Retuning procedures the FCC established in the Report and Order. If we are unable to obtain broadband licenses on favorable terms and on a timely basis, or at all, our business, liquidity, results of operations and prospects will be materially adversely affected. In addition, significant costs or delays beyond what we have anticipated in our business plan will further delay us from commercializing our spectrum assets, and may prevent us from returning capital to stockholders (through dividends or stock repurchases) and require us to seek additional sources of capital and liquidity in order to carry out our business and plans, which could cause significant dilution to our existing stockholders. See the risk factor entitled “ We may not be able to correctly estimate our operating expenses or future revenues, which could lead to cash shortfalls **, and may prevent us from returning capital to our stockholders** and require us to secure additional financing. ” The voluntary exchange process established by the FCC in the Report and Order may not allow us to clear or relocate incumbents in a timely manner and on commercially reasonable terms, or at all. The Report and Order establishes a market- driven, voluntary exchange process for clearing the channels in the broadband segment on a county- by- county basis. When we apply for a broadband license, we will need to demonstrate that we satisfy the 90 % Broadband Segment Test. The fact that we will need to account for 90 % of the licensed channels in the broadband segment before we can file for a broadband application, can lead to holdouts by Covered Incumbents. For example, a Covered Incumbent may demand compensation in an amount that is disproportionate to the cost of relocating its system or any reasonable reflection of the value of its spectrum holdings or may elect not to negotiate an agreement at all. In the Report and Order, the FCC has established **that a license that can satisfy the 90 % Broadband Segment Test, which if satisfied, triggers** ~~trigger~~ a Mandatory Retuning process to help a broadband applicant clear the remaining channels in the broadband segment. There is no assurance, however, that we can swap or acquire sufficient channels, including purchasing additional spectrum, swapping spectrum or entering into protective agreements with Covered Incumbents, to satisfy the 90 % Broadband Segment Test on a timely basis and on commercially reasonable terms, or at all. Further, even if we satisfy the 90 % Broadband Segment Test, as part of the Mandatory Retuning process we will be required to pay any costs associated with providing Covered Incumbents with comparable facilities and paying relocation costs. In addition, the FCC has exempted channels from the Mandatory Retuning process that are being utilized by incumbents operating Complex Systems. The FCC exempted Complex Systems from the Mandatory Retuning requirements because retuning these systems could be complex and disruptive to the incumbent operators. Complex Systems are located in some of the largest business and population centers in the United States. Most are operated by electric utilities, including some utilities that actively opposed our 900 MHz

~~broadband~~ **Broadband** spectrum **Spectrum** initiatives that resulted in the Report and Order. This exemption effectively prevents us from obtaining broadband licenses in counties where these Complex Systems are located (or if a Complex System is being operated within 70 miles of a county boundary for which we are attempting to obtain a broadband license) without the incumbent's consent, which could be withheld for any reason, or for no reason. As a result, the incumbents **Page 18** operating Complex Systems can make demands that are not commercially reasonable (including the commercial terms **to obtain the use of any long-term lease** of our spectrum), delay their decision or refuse to negotiate with us altogether. Our inability to obtain broadband licenses in counties where Complex Systems are currently being operated (or are being operated within 70 miles of a county boundary for which we are attempting to obtain a broadband license) could have a material adverse effect on our operations and business plan, our future prospects and opportunities and on our ability to develop a profitable business. The members of the AAR may delay or hinder our ability to commercialize broadband licenses. The AAR holds a nationwide geographic license for six non-contiguous channels in the 900 MHz band, three of which are located within the broadband segment established by the FCC in the Report and Order. These channels are used by freight railroads for Advanced Train Control System operations. We recognized from the outset of the 900 MHz proceedings the importance of reaching agreements with the railroads about their relocation and worked with them throughout the FCC process. The Report and Order acknowledged the agreement we had reached with the AAR. In January 2020, we formalized our AAR Agreement with the AAR in which we agreed to ~~cancel~~ **provide** licenses in the 900 MHz band to enable the AAR to relocate its operations, including operations utilizing the three channels located in the 900 MHz broadband segment. We cancelled these licenses in June 2020 in accordance with the AAR Agreement **and the FCC Report and Order**. Delays by members of the AAR in clearing their channels in the broadband segment could delay or hinder our ability to commercialize broadband licenses and the ability of our customers to ~~Page 18~~ **deploy 3 x 3 MHz broadband networks** in the affected area, which could **cause delays, penalties or** have a material adverse effect on our operations and business plan, our future prospects and opportunities and on our ability to develop a profitable business. We may not be successful in commercializing our spectrum assets on a timely basis or in accordance with our business plans and expectations. We have identified utilities and other critical infrastructure enterprises as our initial target customers. As of the date of this filing, we have signed long-term leases of our spectrum assets with Ameren ~~and~~, **Energy and Xcel Energy** and have entered into **agreements a contract** to sell our spectrum assets to SDG & E **and LCRA**. Although we are in discussions with other utilities and critical infrastructure enterprises, there is no assurance that these discussions will continue to progress or eventually result in contracts with these entities or that we will be successful in our efforts to commercialize our spectrum assets and other service offerings. For example, utilities or other critical infrastructure enterprises may not elect to ~~lease~~ **acquire use of** any broadband licenses we secure on terms satisfactory to us or for a **consideration lease amount** that represents what we believe is the fair market value for the ~~lease of rights to~~ our spectrum, on a timely basis, or at all. Similarly, there is no assurance that utilities or other critical infrastructure customers will retain us for any other value-added services we offer them. As a result, our prospects must be considered in light of the uncertainties, risks, expenses and difficulties frequently encountered by companies in their early stages of implementing a new business plan and pursuing opportunities in highly competitive and rapidly developing markets. In addition, under our current business plan, we **generally** intend to enter **into** long-term leasing or other transfer arrangements for our spectrum assets **in one county** with one customer, or a limited number of customers, in each geographic area. We also expect that our customers will pay what we believe is the fair market value for **rights to our** the lease of the spectrum and bear the costs of deploying and operating their private broadband networks. As a result, many geographic areas may have only one or a limited number of potential customers and if we are not successful with this customer or limited number of customers, our spectrum may not be utilized, and we will not be able to generate revenues from owning spectrum in that geographic area. In addition, even if we enter a long-term lease or transfer arrangement for a geographic area, **we expect** payments by our customer **in such area** will be contingent on our ability to clear incumbents and take the other necessary actions to secure broadband licenses on a timely basis. Our customers also will typically require rights to all spectrum we have in its geographic operating area. Because of this, we may not have additional spectrum assets to lease in such geographical area to other potential customers. Further, other than our lease or transfer arrangements, we will not generate revenue from the operation of the broadband networks or technologies deployed by our customers. As a result, there is considerable uncertainty as to whether we can generate sufficient revenues to develop a profitable business from leasing or otherwise transferring our licensed 900 MHz spectrum on a timely basis, or at all. Our ability to successfully commercialize our spectrum assets will also depend on the commercial availability of technology, products and solutions that can both utilize the broadband licenses we secure and satisfy our customers' demands. Our spectrum assets are located within the 3GPP global standard of Band 8 (also known as the E-GSM band, or 880-915 MHz paired with 925-960 MHz). Band 8 has been internationally approved and is currently being utilized with LTE broadband networks. However, we may not be able to continue to convince chipmakers and other technology, product and solution manufacturers and vendors to develop the technology, products and solutions required to satisfy our customers' various use cases and meet the technical specifications established in the Report and Order. Further, adverse economic conditions, including as a result of **COVID-19 health pandemics, inflation, regulatory actions and policy changes, and geopolitical matters**, may result in supply chain issues which limit our customer's ability to obtain the necessary technology and products to deploy an LTE broadband network utilizing our spectrum. If such technologies, products and solutions are not available or competitively priced or are **Page 19** significantly delayed, our customers may decide not to lease any broadband licenses we secure on acceptable terms, on a timely basis, or at all. Further, our assessment that we should target utilities and other critical infrastructure entities as customers for our spectrum is based on our determination that these entities have regulatory and other incentives to install a significant number of new technologies, such as smart devices and sensors, that will generate an increasing amount of data that cannot be addressed well by their existing communication networks and systems. Our potential customers, however, are large organizations and **a their** decision to implement private broadband networks, technologies and solutions is an involved decision and will require

significant capital outlays. Any negotiation and contract process with these potential customers has taken, and likely will continue to take, a significant amount of time and effort to work through their approval and funding processes. In addition, there is no assurance that the governmental agencies that regulate these entities will allow them to pass the capital costs of implementing broadband networks, technologies and solutions utilizing our spectrum on to their ratepayers, which could cause these entities to be unable to afford, or to elect not to pursue, rights to our spectrum assets. In addition, although there is broad availability of broadband LTE, there is no assurance that our targeted customers will be able to utilize existing broadband networks, technologies and solutions with our spectrum for their desired use cases without requiring modifications to existing equipment or engaging in product and / or service development efforts, any of which could result in deployment delays, require them or us to invest in technology or other development activities or otherwise adversely limit the potential benefits or value of our spectrum assets. If any of these risks occur or continue beyond our plans and expectations, our plans to commercialize our spectrum assets may not be as valuable as we expect and we may experience significant delays in our commercialization plans, which will have an adverse effect on our business, liquidity, results of operations and prospects. ~~Page 19~~ We are subject to contingencies and obligations under our commercial agreements with **our customers Ameren, SDG & E and Evergy**, including the delivery of cleared spectrum and broadband licenses on a timely basis, and as a result, there is no assurance that we will receive payments from **such customers Ameren and / or SDG & E** in the amounts and on the timeline we currently expect, or that any payments we have received to date, including from Evergy, will not be subject to repayment or that we will not be subject to contract claims, including rights of termination. ~~In December 2020, we announced that we had entered into the Ameren Agreements to provide 900 MHz broadband spectrum licenses covering Ameren's service territories in Missouri and Illinois. In February 2021, we announced that we had entered into the SDG & E Agreements to provide 900 MHz broadband spectrum throughout SDG & E's California service territory, including San Diego and Imperial Counties and portions of Orange County. In September 2021, we entered into a long-term lease agreement of 900 MHz broadband spectrum with Evergy. The Evergy service territories covered by the Evergy Agreement are in Kansas and Missouri.~~ We are subject to contingencies and obligations under our commercial agreements with Ameren, SDG & E and, Evergy, **Xcel Energy and LCRA**, including the delivery of cleared spectrum and broadband licenses in the designated service territories on a timely basis. There is no assurance that we will be able to clear incumbents from Ameren's, SDG & E's, **Evergy's, Xcel Energy's**, and / or **Evergy-LCRA's** respective service territories and obtain broadband licenses from the FCC on the timeline required under our agreements, or at all. Ameren's, SDG & E's and, **Evergy's, Xcel Energy's, and LCRA's** respective payment obligations, including our ability to maintain any upfront payments and any future payment obligations under these agreements, are contingent on our ability to deliver cleared spectrum and ~~broadband~~ **Broadband Spectrum Spectrum** licenses on the timelines required in these agreements. As a result, there is no assurance that we will be able to retain any upfront payments or receive future payments in the amounts and on the timeline we currently expect, or at all. Further, Ameren and, Evergy **and Xcel Energy** may not elect to exercise their options for additional terms contemplated by the terms of the long-term lease agreements. Further, our costs to clear incumbents, qualify for broadband licenses and perform our other obligations under our agreements with Ameren, SDG & E and, Evergy, **Xcel Energy and LCRA** may be significantly more than we currently anticipate, which could increase our ~~operating capital~~ expenses and reduce the net revenue or proceeds we recognize from these agreements. **The Macroeconomic pressures resulting from health epidemics, including the recent COVID- 19 pandemic, unfavorable market conditions, regulatory and policy changes, and ongoing geopolitical matters, may have an adverse impact on our business, financial results, stock price and results of operations as well as the business of our current and potential customers. While the severity of the recent COVID- 19 pandemic has disrupted lessened significantly, the pandemic has had a significant negative impact on the macroeconomic environment, such as decreases in per capital income and could continue level of disposable income, inflation, rising interest rates, and supply chain issues. Ongoing geopolitical matters have also contributed to difficult macroeconomic conditions and exacerbated supply chain issues, resulting in significant economic uncertainty as well as volatility in the financial markets and new regulatory and policy initiatives particularly in the United States. Such conditions may adversely impact our business, including our broadband licensing and commercialization efforts and our financial condition, liquidity and results of, and prospects and our target customers' businesses. In addition, such macroeconomic conditions could impact our ability to access the public markets as and when appropriate or necessary to carry out our operations or our strategic goals. In March 2020 We cannot predict the ongoing extent, duration or severity of the these World Health Organization declared conditions, nor the extent to which we may be impacted. To the extent macroeconomic conditions worsen, our business, operations and results of operation could be negatively impacted. Additionally, to the extent that the there is outbreak of a resurgence in novel coronavirus ("COVID-19") as a pandemic and COVID-19 continues to cause significant disruptions throughout the World. The COVID- 19 pandemic has, or other health epidemics or outbreaks, our operations could be disrupted and our business could continue to adversely impact impacted our business operations and the business operations of our targeted utility and critical infrastructure customers and equipment technology and solution suppliers. Such** Reduced business operations may prevent us from timely and successfully negotiating and entering into agreements with incumbents to acquire and / or swap the spectrum required to enable us to qualify for broadband licenses. The reduced business operations may hinder our efforts to secure broadband licenses from the FCC and to timely and successfully commercialize any broadband licenses we secure for our targeted customers. For example, the disruptions caused by **or impacts may be similar to those we faced during the COVID- 19 pandemic, such as mandated business closures in impacted areas, limitations with employee resources due to stay at home orders or sickness of employees or their families, reduction of our business operations Page 20 and the business operations of our targeted utility and critical infrastructure customers, all of which may have commanded, and an adverse impact on** may continue to command, the attention of our targeted customers. Further, the business disruptions and reduced economic activity, **financial** including the adverse results of inflation, may harm the **stock price and** results of

operations and financial condition of our target customers, which may cause them to delay or elect not to pursue a right to lease our spectrum assets and invest in a private LTE system. The business disruptions and other adverse economic consequences of the COVID-19 pandemic continue to rapidly evolve. The ultimate extent and continuing length of the impact of COVID-19 on our future financial performance will depend on ongoing developments, all of which remain uncertain and cannot be predicted.

Our initiatives with the federal and state agencies and commissions that regulate electric utilities may not be successful. Our targeted utility and critical infrastructure customers are highly regulated by both federal and state agencies. Electrical utilities, for example, are regulated by federal agencies including the Department of Energy, the Department of Homeland Security, the Federal Energy Regulatory Commission and the NIST. We are working with each of these agencies to educate them about the potential benefits that private broadband LTE networks, technologies and solutions utilizing our spectrum assets can offer utilities. We are also working with state agencies and commissions who regulate the electrical utilities in their respective states, and who have a strong influence over electric utility buying decisions in their jurisdictions. Our goal with these state agencies and commissions is to gain their support for allowing utilities to pass the capital costs of leasing our spectrum assets and deploying private broadband LTE networks, technologies and solutions to ratepayers, including at a customary rate of return for the utility company. We are in the early stages of our initiatives with these federal and state agencies and commissions. We may not be successful in gaining support from these governmental bodies on a timely basis, or at all, which could hinder or delay our commercialization efforts with utilities and other entities. If we do not gain support from these governmental bodies, our targeted critical infrastructure customers may not find it commercially feasible to lease our spectrum assets.

Page 20 We may not be able to maintain any broadband licenses that we own and / or obtain from the FCC. The FCC issues each spectrum license for a fixed period, typically ten years in the case of the FCC licenses for the narrowband spectrum we currently hold and 15 years for any broadband licenses we have or intend to secure in the future. The Report and Order establishes “ performance ” or build- out requirements that we will be required to meet to retain and renew any broadband licenses we obtain (“ **Build- out Requirements** ”). Performance will be measured at the six- and twelve- year anniversaries of each broadband license. **Although we have contractual rights and remedies with our licensees in the event of their failure to meet the Build- Out Requirements, a** failure to satisfy the six- year anniversary requirements, accelerates the twelve- year anniversary to a ten- year anniversary requirement. A failure to satisfy these requirements could result in the FCC’ s termination of a broadband license or refusal to renew a previously issued broadband license. In addition, under our business plan, we intend for our customers to be responsible to pay the build- out and operating costs of such broadband systems. Such **build- out- Out requirements** **Requirements** could impose a significant expense and could cause potential customers to decide not to license broadband licenses from us, or to seek alternative communication solutions from other providers. Government regulations or actions taken by governmental bodies could adversely affect our business prospects, liquidity and results of operations, including any changes by the FCC to the Report and Order or to the FCC rules and regulations governing the 900 MHz band. The licensing and sale of spectrum assets, as well as the deployment and operation of wireless networks and technologies, are regulated by the FCC and, depending on the jurisdiction, by state and local regulatory agencies. In particular, the FCC imposes significant regulation on licensees of wireless spectrum with respect to how FCC licenses may be transferred or sold. The FCC also regulates how the spectrum is used by licensees, the nature of the services that licensees may offer and how the services may be offered, including resolution of issues of interference between spectrum bands. Failure to comply with FCC requirements applicable to a given licensee could result in revocation or non- renewal of the license, depending on the nature and severity of the non- compliance. If we, or any of the future licensees of our spectrum assets, fail to comply with applicable FCC regulations, we may be subject to sanctions or lose our FCC licenses, which would have a material adverse effect on our business, liquidity, results of operations and prospects. In addition, the FCC and other federal, state and local governmental authorities could adopt new regulations or take actions, including imposing taxes or fees on our business that could have a materially adverse effect on our business, liquidity, results of operations and prospects. Further, the FCC or Congress may make additional spectrum available for communications services, which may result in the introduction of additional competitive entrants to the already crowded wireless communications marketplace in which we compete. For example, the federal government created and funded the FRNA which the federal government authorized to help accomplish, fund and oversee the deployment of the dedicated NPSBN. The NPSBN, which is marketed as “ FirstNet ”, may provide an additional source of competition to utilizing our 900 MHz spectrum assets by our targeted critical infrastructure and enterprise customers. **Page 21** The value of our spectrum assets may fluctuate significantly based on supply and demand, as well as technical and regulatory changes. The FCC spectrum licenses we hold are our most valuable asset. The value of our spectrum, however, may fluctuate based on various factors, including, among others: • the cost and time required to comply with the FCC’ s requirements to obtain broadband licenses in the 900 MHz band, including purchasing additional spectrum and retuning and relocating incumbents; • our ability to enter long- term leases or transfer arrangements with our targeted utility and critical infrastructure customers on a timely basis and on commercially reasonable terms; • potential uses of our spectrum based on the Report and Order and available technology; • the market availability of, and demand for, broadband spectrum; • the demand for private broadband networks, technologies and solutions by our targeted utility and critical infrastructure customers; and • regulatory changes by the FCC to make additional spectrum available or to promote more flexible uses of existing spectrum in other bands. Similarly, the price of any additional spectrum we desire to purchase to enable us to qualify for broadband licenses or our future business plans will also fluctuate based on similar factors. Any decline in the value of our spectrum or increases in the cost of the spectrum we acquire could have an adverse effect on our market value and our business and operating results.

Risks Related to Our Business We may not be able to correctly estimate our operating expenses or future revenues, which could lead to cash shortfalls, and may prevent us from returning capital to our stockholders and require us to secure additional financing. We dedicated significant resources to support the FCC’ s approval of the Report and Order. We have expended, and will need to continue to expend substantial resources for the foreseeable future, to commercialize and promote the benefits of deploying broadband systems to our targeted utility and critical infrastructure

customers. We also will need to expend ~~Page 21~~ substantial resources for the foreseeable future to qualify for and obtain broadband licenses, including the costs related to retuning incumbent systems, purchasing additional spectrum from incumbents and / or making Anti- Windfall Payments to the U. S. Treasury to commercialize our spectrum assets. We believe our ~~existing~~ cash **and cash equivalents on hand, along with contracted proceeds from customers** will be sufficient to ~~fund meet~~ our **financial obligations through planned operating expenses and capital expenditure requirements for** at least the next 12 months from the date of this filing. Our budgeted expense levels are based in part on our expectations and assumptions regarding the timing and costs to qualify for and obtain broadband licenses, the demand by our target customers to utilize our spectrum assets to deploy broadband networks, technologies and solutions and the time required to enter into binding contracts with our target customers. However, we may not correctly predict the amount or timing of our future revenues and our operating expenses, which may fluctuate significantly in the future as a result of a variety of factors, many of which are outside of our control, and may be materially different than our announced plans and expectations. These factors include: • the cost and time required to obtain broadband licenses, including the costs to clear the 900 MHz band and to acquire additional spectrum from incumbents and / or to make Anti- Windfall Payments; • our ability to qualify for and utilize the Mandatory Retuning process established by the Report and Order; • our ability to negotiate agreements with the operators of Complex Systems; • the cost and time to promote, market and commercialize our spectrum assets, including the long sales cycle required to enter **commercial long-term lease** arrangements with our targeted utility and critical infrastructure customers; • the commercial terms, including the length of the lease and the timing of payments, in our future commercial arrangements with our targeted customers; • the costs associated with increasing the size of our organization, including the costs to attract and retain personnel with the skills required to support our business plans; • adverse economic conditions, including as a result of inflation, that delay or otherwise hinder our commercialization efforts; and • the funds we return to stockholders through our share repurchase program. ~~In addition, other~~ **Other** costs may arise that we currently do not anticipate ~~and~~ ~~Further, other~~ unanticipated events may occur that reduce the amounts and delay the timing of our future revenues ~~, including the potential impacts of the business disruptions and economic consequences resulting from the COVID-19 pandemic~~. We may not be able to adjust our operations in a timely manner to compensate for any shortfall in our revenues, delays in obtaining broadband licenses, delays in entering **commercial agreements long-term leases** for our spectrum or increases in the expenses required to secure broadband licenses and implement our commercialization and business plans. Further, our assumptions regarding the terms of any spectrum ~~leases~~ **transactions** we enter into with our targeted customers, including the timing of customer payments, may turn out to be inaccurate. As a result, a significant shortfall in our planned revenues, a significant delay in obtaining broadband licenses and entering into ~~agreements long-term leases~~ for our spectrum assets, customers ~~Page 22~~ electing not to make significant pre-payments under the terms of any ~~lease~~ agreements we enter into or significant increases in our planned expenses could have an immediate and material adverse effect on our business, liquidity, results of operations and prospects. In such case, we may not be able to return capital to our stockholders ~~as planned (through dividends and stock repurchases)~~ and may be required to issue additional equity or debt securities or enter into other commercial arrangements to secure the additional financial resources to support our future operations and the implementation of our business plans. Such financing may result in dilution to stockholders, imposition of debt covenants and repayment obligations, or other restrictions that may adversely affect our business, prospects and results of operations. In addition, we may seek additional capital due to market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. We have a limited operating history with our current business plan, which makes it difficult to evaluate our prospects and future financial results and our business activities, strategic approaches and plans may not be successful. Although we were incorporated in 1997, our business is now reliant on our ability to secure broadband licenses pursuant to the Report and Order ~~approved by the FCC in May 2020~~ and to commercialize our spectrum assets to our targeted utility and critical infrastructure customers. Since the Report and Order, we have signed commercial agreements with ~~three five~~ of our target utility and critical infrastructure customers for the long- term lease or transfer of our spectrum assets. Although we are in discussions with other utilities and critical infrastructure companies ~~, and we believe many of these utility and critical infrastructure customers have demonstrated an intention to acquire use of our 900 MHz Broadband Spectrum based on their level of engagement~~, there is no assurance that these discussions will continue to progress or will eventually result in contracts with these entities. There also is no assurance regarding the terms of any agreements we enter into with our target customers, including the time required to enter into an agreement and the amount or timing of any payments from any executed agreement. In addition, there is no assurance that we will be able to satisfy our obligations under our commercial agreements, including our obligations to secure broadband licenses on a timely basis and on commercially reasonable terms, or at all. As a result, there is no assurance that we will be successful in our efforts to commercialize our spectrum assets and other service offerings. Further, our ability to forecast our future operating results is limited and subject to a number of risks and uncertainties, including our ability to accurately forecast and estimate our future revenues and the expenses and time required to obtain broadband licenses and pursue our commercialization plans. We have ~~Page 22~~ encountered, and expect to continue to encounter, risks and uncertainties frequently experienced by new businesses in highly competitive, technical and rapidly changing markets. If our assumptions regarding these risks and uncertainties are incorrect, or if there are adverse changes in our commercialization plans or opportunities or general economic conditions, or if we do not manage or address these risks and uncertainties successfully, our results of operations could differ materially and adversely from our expectations. As a business with a limited operating history with our current business plan, any future success will depend, in large part, on our ability to, among other things: • comply with the requirements and restrictions the FCC has established in the Report and Order to qualify for and obtain broadband licenses in key geographic areas on a timely and cost- effective basis; • successfully commercialize our spectrum assets to our targeted utility and critical infrastructure customers on favorable terms, on a timely basis, or at all; • comply with our obligations under our existing and any future agreements with our customers on a timely basis and on commercially reasonable terms; • compete against other wireless

companies, including the Tier 1 carriers such as Verizon, AT & T, T-Mobile, Dish and UScellular, manufacturers and vendors who have significantly greater resources and pricing flexibility, long-term relationships with our targeted customers and greater political and regulatory influence; • successfully convince chipmakers and other technology, product and solution manufacturers and vendors to develop the technology, products and solutions required to satisfy our customers' various use cases and meet the technical specifications established in the Report and Order; and • successfully manage and grow our internal business, regulatory, technical and commercial operations in an efficient and cost-effective manner. Any failure to achieve one or more of these objectives could adversely affect our business, our results of operations and our financial condition. Many of the third parties who offer spectrum and communication technologies, products and solutions to our targeted customers have existing long-term relationships with these targeted customers and have significantly more resources and greater political and regulatory influence than we do, and we may not be able to successfully compete with these third parties. Our competitors include the Tier 1 carriers (retail wireless network providers, such as Verizon, AT & T and T-Mobile), Dish and UScellular, private radio operators and other public and private companies who supply communication networks, technologies, products and solutions to our targeted utility and critical infrastructure entities. Many of these competitors have significantly more resources, a longer track record of providing technologies, products and solutions to our targeted customers and greater political and regulatory influence than we do, all of which could prevent, delay or increase the costs of commercializing the broadband Page 23 licenses we secure to our targeted customers. In addition, we expect under our business plan, our targeted customers will be required to bear the cost of installing and operating the broadband networks, technologies and solutions utilizing our licensed spectrum, thereby requiring the replacement of some or all of their existing communication systems. Given these significant capital requirements, there is no assurance that we will be able to successfully commercialize our spectrum assets, especially in light of the competitive environment in which we operate, and the wide variety of technologies, products and solutions offered by our competitors. Further, in the process of pursuing broadband licenses, we may be required to make significant concessions or contractual commitments, make significant payments or assume significant costs, purchase additional spectrum or replacement communication systems or limit the use of our spectrum assets or restrict our pursuit of business opportunities to address the concerns expressed by incumbents and other interested parties. In addition, the FCC and other federal, state and local governmental authorities could adopt new regulations or take actions, including making additional spectrum available that can be utilized by our targeted customers, which could harm our ability to license our spectrum assets. For example, the federal government created and funded the FRNA, which the federal government authorized to help accomplish, fund, and oversee the deployment of a dedicated Nationwide Public Safety Broadband Network ("NPSBN"). The NPSBN, which is marketed as "FirstNet", may provide an additional source of competition to utilizing our 900 MHz spectrum assets by our targeted utility and critical infrastructure enterprises. Some of our competitors, including the Tier 1 carriers such as Verizon, AT & T, T-Mobile, Dish and UScellular, have significantly greater pricing flexibility, have taken steps and may decide to compete against us more aggressively. These and other competitors may own or acquire spectrum that directly competes with our 900 MHz spectrum and / or have developed or may develop technologies that directly compete with our solutions. If competitors offer spectrum rights or services, technologies and solutions to our targeted customers at prices and terms that make the licensing of our spectrum assets unattractive, our ability to license or otherwise commercialize our spectrum assets could be impaired. As a result, we may be unable to attract customers at prices or on terms that would be favorable, or at all, which could have an adverse effect on the growth and timing of any future revenues. In addition, we may not be able to fund or invest in certain areas of our business to the same degree as our competitors. Many have substantially greater product development and marketing budgets and other financial and regulatory personnel resources than we do. Many Page 23 also have greater name and brand recognition and a larger base of customers than we have. Competition could increase our selling and marketing expenses and related customer acquisition costs. We may not have the financial resources, technical expertise or marketing and support capabilities to compete successfully. If we are unable to attract new customers, our results of operations and our business will be adversely affected. Our targeted customers are large, heavily-regulated enterprises and our business plan requires these customers to commit to long-term leases of transactions for our spectrum and then to purchase and deploy broadband network equipment, solutions and services utilizing our leased spectrum. There are typically a number of constituencies within each of our targeted customers that need to review and approve the lease-commercial agreements of our spectrum before signing a contract with us. As a result, we have experienced, and we expect to continue to experience, long sales cycles with our targeted customers. In addition, numerous other factors, many of which are out of our control, may now or in the future impact our ability to acquire new customers, including not gaining support from governmental bodies that regulate our customers, the ability of our customers to pass their lease and broadband spectrum use and deployment costs to their ratepayers, our customers' existing commitments to other providers or communication solutions, real or perceived costs of leasing our spectrum assets and deploying broadband networks, solutions and services, our failure to expand, retain and motivate our sales and marketing personnel, our failure to develop or expand relationships with the manufacturers or suppliers of broadband technologies, solutions and services that can be utilized on our spectrum, negative media, industry or financial analyst commentary regarding us or our solutions, litigation, the spectrum and service offerings of our competitors, the adverse impacts of the health COVID-19 pandemic-pandemics and deteriorating general economic conditions and events. Any of these factors could impact our ability to attract new customers to lease or obtain rights to our spectrum assets. As a result of these and other factors, we may be unable to timely attract enough customers to support our operating costs, which would harm our business and results of operations. We have had net losses each year since our inception and may not achieve or maintain profitability in the future. We have incurred net losses each year since our inception and we may not achieve or maintain profitability in the future for a number of reasons, including without limitation, the costs to obtain broadband licenses, including the costs to clear the 900 MHz band, the costs to promote and commercialize our spectrum assets to our targeted utility and critical infrastructure customers, our inability to commercialize our spectrum assets to our targeted utility and critical

infrastructure customers on a timely basis and on commercially favorable terms and changes in our revenue recognition policies. Additionally, we may encounter unforeseen operating expenses, difficulties, complications, delays and other unknown factors that may result in significant delays in our business plans, levels of revenue below our current expectations, or losses or expenses that exceed our current expectations. If our losses or expenses exceed our expectations or our revenue assumptions are not met in future periods, we may never achieve or maintain profitability in the future. **Page 24** Our ability to use our net operating losses to offset future taxable income, if any, may be subject to certain limitations. As of March 31, 2022-2023, we had approximately \$ 90.3 million of federal net operating loss (“ NOL ”) carryforwards, expiring in various amounts from 2023 through 2038, to offset future taxable income and the remaining \$ 240-237.45 million of which can be carried forward indefinitely but limited to 80 % of future taxable income when used. In the United States, utilization of the NOL carryforwards may be subject to a substantial annual limitation under Section 382 of the Internal Revenue Code of 1986, as amended (the “ Code ”), and similar state provisions due to ownership change limitations that have occurred previously or that could occur in the future. The NOL carryforwards and certain other tax attributes of ours may also be subject to limitations as a result of ownership changes. If we were to lose the benefits of these NOL carryforwards, our future earnings and cash resources would be materially and adversely affected. We have incurred net losses since our inception, and we anticipate that we will continue to incur significant losses for the foreseeable future; thus, we do not know whether or when we will generate the U. S. federal taxable income necessary to utilize our NOLs. Our reputation and business may be harmed, and we may be subject to legal claims if there is loss, disclosure, or misappropriation of, or access to, our customers’ information. We make extensive use of online services and centralized data processing, including through third- party service providers. The secure maintenance and transmission of customer information is an important element of our operations. Our information technology and other systems, and those of our service providers or contract partners (including A-BEEP, Goosetown and the LLC), that maintain and transmit customer information, including location or personal information, may be compromised by a malicious third- party penetration of our network security, or that of our third- party service providers or contract partners, or impacted by unauthorized intentional or inadvertent actions or inactions by our employees, or by the employees of our third- party service providers or contract partners. Cyber- attacks, which include the use of malware, computer viruses and other means of disruption or unauthorized access, have increased in frequency, scope and potential harm in recent years. While, to date, we have not been subject to cyber-attacks or other cyber incidents which, individually or in the aggregate, have been material to our operations or financial condition, the preventive actions we and our third- party service providers and contract partners take to reduce the risk of cyber incidents and protect information technology resources and networks may be **Page 24** insufficient to repel a major cyber- attack in the future. As a result, our customers’ information may be lost, disclosed, accessed, used, corrupted, destroyed or taken without the customers’ consent. Any significant compromise of our data or network security, failure to prevent or mitigate the loss of customer information and delays in detecting any such compromise or loss could disrupt our operations, impact our reputation and subject us to additional costs and liabilities, including litigation, which could produce material and adverse effects on our business and results of operations. Risks Related to Our Organization and Structure We may change our operations and business strategies without stockholder consent. Our executive management team, with oversight from our Board, establishes our operational plans, our commercialization plans and our business strategies. Our Board and executive management team may make changes to or approve transactions that deviate from our current operations and strategies without a vote of, or prior notice to, our stockholders. This authority to change our operations, commercialization plans and business strategies could result in us conducting operational matters, making investments, pursuing spectrum opportunities, or implementing business or growth strategies in a manner different than those that we are currently pursuing. Under any of these circumstances, we may expose ourselves to different and more significant risks, decrease our revenues or increase our expenses and financial requirements, any of which could have a material adverse effect on our business, prospects, liquidity, financial condition and results of operations. **We Our future success depend depends on our ability to retain** our executive officers and key **personnel and to attract, retain and motivate qualified** personnel. Our success depends to a significant degree upon the contributions of our executive officers and key personnel, who have unique experience and expertise in the telecommunications industry, large scale and multi- year solution selling to utilities, wireless broadband networks, FCC rulemaking and retuning and clearing spectrum to obtain FCC licenses. Although we have adopted a severance plan for our executive officers, we do not otherwise have long- term employment agreements with any of our executive officers or key personnel. There is no guarantee that these individuals will remain employed with us. In addition, we have not obtained and do not expect to obtain key man life insurance that would provide us with proceeds in the event of the death or disability of any of our executive officers or key personnel. If any of our executive officers or key personnel were to cease employment with us, our operating results and the implementation of our commercial and business terms could suffer. Further, the process of attracting and retaining suitable replacements for our executive officers and key personnel would result in transition costs and would divert the attention of other members of our senior management team from our existing operations. As a result, the loss of services from our executive officers or key personnel or a limitation in their availability could materially and adversely impact our business, prospects and results of operations. Further, such a loss could be negatively perceived in the capital markets. **Page 25 Recruiting and retaining qualified personnel, including effective sales personnel, are critical to our success. Competition to hire qualified personnel in our industry is intense, and we may be unable to hire, train, retain or motivate these key personnel on acceptable terms given the competition among numerous telecommunications companies for similar personnel.** We will need to continue to expand our organization and we may experience difficulties in managing this growth, which could disrupt our operations. We have significantly expanded our commercialization organization since the Report and Order was issued in May 2020. As we continue to pursue broadband licenses and implement our commercialization plans, we expect to need additional managerial, operational, technical, sales, marketing, financial, legal and other resources. Our management may need to divert its attention away from its day- to- day activities and devote a substantial amount of time to managing these growth

activities. We may not be able to effectively manage the expansion of our operations, which may result in weaknesses in our infrastructure, operational mistakes, loss of business opportunities, loss of employees and reduced productivity among remaining employees. Our expected growth could require significant capital expenditures and may divert financial resources from other projects. If our management is unable to effectively manage our growth, our expenses may increase more than expected or budgeted, our ability to generate and / or grow revenue could be reduced and we may not be able to implement our currently anticipated business strategy. Our future financial performance and our ability to commercialize our spectrum assets and compete effectively will depend, in part, on our ability to effectively manage any future growth. Failure to manage this growth could disrupt our business operations and negatively impact our ability to achieve success. If we fail to implement and maintain an effective system of internal controls, we may not be able to accurately determine our financial results or prevent fraud. As a result, our stockholders could lose confidence in our financial results, which would materially and adversely affect our value and our ability to raise any required capital in the future. Effective internal controls are necessary for us to provide reliable financial reports and effectively prevent fraud. We have discovered in the past and may discover in the future areas of our internal controls that need improvement or additional documentation. For example, subsequent to filing the Quarterly Report on Form 10-Q for the period ended September 30, 2021, we determined that our controls and procedures were not effective as the result of a material weakness in our internal controls over financial reporting related to the identification, review, analysis and recording of our intangible assets, more specifically, non-monetary exchanges of our narrowband licenses for broadband licenses. ~~Management has taken steps to remediate the material weakness as of March 31, 2022. As management continues to evaluate and improve our internal control over financial reporting, we may decide to take additional measures to address control deficiencies or determine to modify, or in appropriate Page 25 circumstances not to complete, certain of the remediation measures identified.~~ The material weakness ~~was is considered~~ remediated **as of March 31, 2022** as the applicable remedial controls operated for a sufficient period of time and management has concluded through testing, that these controls were operating effectively as of the end of the period covered by this Annual Report. We cannot be certain that we will be successful in implementing or maintaining effective internal controls for all financial periods. As we grow our business, our internal controls will become more complex, and we will require significantly more resources to ensure our internal controls remain effective. The existence of any material weakness or significant deficiency in the future may require management to devote significant time and incur significant expense to remediate any such material weaknesses or significant deficiencies and management may not be able to remediate any such material weaknesses or significant deficiencies in a timely manner. In addition, the existence of any material weakness in our internal controls could also result in errors in our financial statements that could require us to restate our financial statements, cause us to fail to meet our reporting obligations and cause stockholders to lose confidence in our reported financial information, all of which could materially and adversely affect our value and our ability to raise any required capital in the future. Risks Related to Our Common Stock There is no assurance that a robust market in our common stock will develop or be sustained. Since our common stock began trading on the Nasdaq Stock Market in 2015, we have had limited daily trading volume. We cannot assure you that a more active or liquid trading market for our common stock will develop, or will be sustained if it does develop, either of which could materially and adversely affect the market price of our common stock, our ability to raise capital in the future and the ability of stockholders to sell their shares at the volume, prices and times desired. In addition, the risks and uncertainties related to our ability to obtain broadband licenses and our proposed business strategies makes it difficult to evaluate our business, our prospects and the valuation of our Company, which limits the liquidity and volume of our common stock and may have a material adverse effect on the market price of our common stock. Our common stock prices may be volatile, which could cause the value of our common stock to decline. The market price of our common stock may be highly volatile and subject to wide fluctuations. Some of the factors that could negatively affect or result in fluctuations in the market price of our common stock include: • the timing and costs of securing broadband licenses; • our ability to enter into contracts with our targeted utility and critical infrastructure customers, on a timely basis or at all; • the terms of our customer contracts, including pre-payments and our contractual obligations; **Page 26** • our ability to comply with our obligations, on a timely and cost-effective basis, under our existing customer contracts; • market reaction to any changes in our business plans or strategies; • announcements, offerings or actions by our competitors; • governmental regulations or actions taken by governmental bodies; • additions or departures of any of our executive officers or key personnel; • actions by our stockholders; • speculation in the press or investment community; • general market, economic and political conditions, including an economic slowdown, inflation or dislocation in the global credit markets; • our operating performance and the performance of other similar companies; • changes in accounting principles, judgments or assumptions; and • passage of legislation or other regulatory developments that adversely affect us or our industry. Concentration of ownership will limit your ability to influence corporate matters. Based on our review of publicly available filings as of ~~May 24 June 09, 2022-2023~~, funds affiliated with Owl Creek Asset Management (“Owl Creek”) beneficially owned approximately 28.64% and, **funds affiliated with Heard Capital LLC owned approximately 7.9%**, funds affiliated with Morgan Stanley Investment Management Inc. owned approximately 6.78%, **funds affiliated with BlackRock, Inc. owned approximately 6.8%**, and **funds affiliated with GIC Private Limited owned approximately 6.1%** of our outstanding common stock, ~~and together with Owl Creek, . These four investment firms collectively beneficially own~~ **approximately 35.56. 3-0** % of our outstanding shares of common stock. Although we are not aware of any voting arrangements between these stockholders, our significant stockholders can determine (if acting together) or significantly influence ~~(if acting as a group of two or more)~~: (i) the outcome of any corporate actions submitted by our Board for approval by our stockholders and (ii) any proposals or director nominees submitted by a stockholder. Further, they could place significant pressure on our Board to pursue corporate actions, director candidates and business opportunities they identify. For example, **in the fiscal year ended March 31, 2022 (“Fiscal 2022”)** we ~~previously~~ engaged in cooperative discussions with Owl Creek regarding Owl Creek’s interest in nominating an individual to our Board **and in Fiscal 2023 we added Jeffrey Altman, managing member of the general partner of Owl Creek, to our Board**. In addition, in its

recent filings with the SEC, Owl Creek reported that it expects to continue to engage in cooperative discussions with our management and Board concerning ways to work together to achieve our strategic objectives. Owl Creek and our other significant stockholders could effectively block a proposed sale of the company, even if recommended by our Board. Alternatively, these stockholders could place pressure on our Board to pursue a sale of the company or its assets. As a result of ~~Page 26~~ this concentration of ownership, our other stockholders may have no effective voice in our corporate actions or the operations of our business, which may adversely affect the market price of our common stock. Future sales of our common stock, or preferred stock, or of other securities convertible into our common stock or preferred stock, could cause the market value of our common stock to decline and could result in dilution of your shares. Our Board is authorized, without stockholder approval, to permit us to issue additional shares of common stock or to raise capital through the creation and issuance of preferred stock, other debt securities convertible into common stock or preferred stock, options, warrants and other rights, on terms and for consideration as our Board in its sole discretion may determine. ~~In April 2020, we filed a shelf registration statement (the “Shelf Registration Statement”) on Form S-3 with the SEC that was declared effective by the SEC on April 20, 2020, which permits us to offer up to \$ 150 million of common stock, preferred stock and warrants in one or more offerings and in any combination, including in units from time to time. In April 2020, we entered into an Amended and Restated Controlled Equity OfferingSM Sales Agreement and an Amended and Restated Sales Agreement (collectively, the “Sales Agreements”) with Cantor Fitzgerald & Co. and B. Riley FBR, Inc., respectively (collectively, the “Agents”), and registered the sale of up to an aggregate of \$ 50, 000, 000 in shares of our common stock in at- the- market sales transactions pursuant to the Sales Agreements under the Shelf Registration Statement. Our Sales Agreements are intended to provide us with additional flexibility to access the capital markets by selling registered shares under the Shelf Registration Statement. In addition, we have filed registration statements on Form S- 8 to register the total number of shares of our common stock that may be issued under our 2014 Stock Plan, including the equity awards issued to our executive officers and directors. As of May 24, 2022, there are outstanding options to purchase 1, 274, 176 shares of our common stock and restricted stock unit agreements for 718, 096 shares of our common stock and 773, 942 shares remaining available for issuance under our 2014 Stock Plan, all of which are registered for sale on currently effective Forms S- 8. Sales of substantial amounts of our common stock, including sales by our officers, directors or 5 % and greater stockholders, or of preferred stock could cause the market price of our common stock to decrease significantly. We cannot predict the effect, if any, of future sales of our common stock, or the availability of our common stock for future sales, on the value of our common stock. Sales of substantial amounts of our common stock by any one or more of our large stockholders, or the perception that such sales could occur, may adversely affect the market price of our common stock. We cannot guarantee that our share repurchase program will be utilized to the full value approved or that it will enhance long- term stockholder value. Repurchases we consummate could increase the volatility of the price of our common stock and could have a negative impact on our available cash balance. Our Board authorized a share repurchase program pursuant to which we may repurchase up to \$ 50. 0 million of our common stock on or before September 29, 2023. The manner, timing and amount of any share repurchases may fluctuate and will be determined by us based on a variety of factors, including the market price of our common stock, our priorities for the use of cash to support our business operations and plans, general business and market conditions, tax laws, and alternative investment opportunities. The share repurchase program authorization does not obligate us to acquire any specific number or dollar value of shares. Further, our share repurchases could have an impact on our share trading prices, increase the volatility of the price of our common stock, or reduce our available cash balance such that we will be required to seek financing to support our operations. Our share repurchase program may be modified, suspended or terminated at any time, which may result in a decrease in the trading prices of our common stock. Even if our share repurchase program is fully implemented, it may not **Page 27** enhance long- term stockholder value. **Additionally, repurchases are subject to the 1 % Share Repurchase Excise Tax enacted by the Inflation Reduction Act, which may be offset by shares newly issued during that fiscal year (the “Share Repurchase Excise Tax”). We have and will continue to take the Share Repurchase Excise Tax into account with respect to our decisions to repurchase shares.** Future offerings of debt securities or preferred stock, which would rank senior to our common stock in the event of our bankruptcy or liquidation, may adversely affect the market price of our common stock. In the future, we may attempt to increase our capital resources by making offerings of debt securities or otherwise incurring debt. In the event of our bankruptcy or liquidation, holders of our debt securities may be entitled to receive distributions of our available assets prior to the holders of our common stock. In addition, we may offer preferred stock that provides holders with a preference on liquidating distributions or a preference on dividend payments or both or that could otherwise limit our ability to pay dividends or make liquidating distributions to the holders of our common stock. Although we have no present plans to do so, our decision to issue debt securities or to issue preferred stock in any future offerings or otherwise incur debt may depend on market conditions and other factors beyond our control. As a result, we cannot predict or estimate the amount, timing or nature of our future offerings, and investors in our common stock bear the risk of our future offerings reducing the market price of our common stock and / or diluting their ownership interest in us. Certain anti- takeover defenses and applicable law may limit the ability of a third party to acquire control of us. Certain provisions of our amended and restated certificate of incorporation, as amended (the “ Amended and Restated Certificate of Incorporation ”) and amended and restated bylaws, as amended (the “ Amended and Restated Bylaws ”), could discourage, delay, or prevent a merger, acquisition, or other change of control that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions also could limit the ~~Page 27~~ price that investors might be willing to pay in the future for our common stock, thereby depressing the market price of our common stock. These provisions, among other things: • allow the authorized number of directors to be changed only by resolution of our Board; • authorize our Board to issue, without stockholder approval, preferred stock, the rights of which will be determined at the discretion of our Board and that, if issued, could operate as a “ poison pill ” to dilute the stock ownership of a potential hostile acquirer to prevent an acquisition that our Board does not approve; • establish advance notice~~

requirements for stockholder nominations to our Board or for stockholder proposals that can be acted on at stockholder meetings; and • limit who may call a stockholders meeting. In addition, we are subject to Section 203 of the Delaware General Corporation Law (the “ DGCL ”). In general, Section 203 of the DGCL prevents an “ interested stockholder ” (as defined in the DGCL) from engaging in a “ business combination ” (as defined in the DGCL) with us for three years following the date that person becomes an interested stockholder unless one or more of the following occurs: • before that person became an interested stockholder, our Board approved the transaction in which the interested stockholder became an interested stockholder or approved the business combination; • upon consummation of the transaction that resulted in the interested stockholder becoming an interested stockholder, the interested stockholder owned at least 85 % of our voting stock outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) stock held by directors who are also officers of our Company and by employee stock plans that do not provide employees with the right to determine confidentially whether shares held under the plan will be tendered in a tender or exchange offer; or • following the transaction in which that person became an interested stockholder, the business combination is approved by our Board and authorized at a meeting of stockholders by the affirmative vote of the holders of at least 66 2 / 3 % of our outstanding voting stock not owned by the interested stockholder. The DGCL generally defines “ interested stockholder ” as any person who, together with affiliates and associates, is the owner of 15 % or more of our outstanding voting stock or is our affiliate or associate and was the owner of 15 % or more of our outstanding voting stock at any time within the three- year period immediately before the date of determination. As a result, our election to be subject to Section 203 of the DGCL could limit the ability of a third party to acquire control of us. **Page 28** 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 Amended and 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 DGCL, our Amended and Restated Bylaws and our 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 registrant 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; • we will not be obligated pursuant to our Amended and Restated Bylaws to indemnify a person with respect to proceedings initiated by that person against us or our other ~~indemnitees~~ **indemnities**, except with respect to proceedings authorized by our Board or brought to enforce a right 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 bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents. As a result, 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. **Page 28**