Risk Factors Comparison 2023-11-17 to 2022-11-18 Form: 10-K

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Our operating and financial results are subject to various risks and uncertainties. You should carefully consider the risks and uncertainties described below, together with all of the other information in this report, including the Consolidated Financial Statements and the related notes included elsewhere in this report, before deciding whether to invest in shares of our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. If any of the following risks or others not specified below actually occurs, our business, financial condition, results of operations, and future prospects could be materially and adversely affected. In that event, the market price of our common stock could decline, and you could lose part or all of your investment. Risk Factors Summary Our business is subject to a number of risks and uncertainties, including those risks discussed at- length below. These risks include, among other things, the following: • We have incurred losses in the past, and we may not be profitable in the future. • Our operating results are likely to vary significantly from period to period and be unpredictable, which could cause the trading price of our common stock to decline. • We must improve our sales execution and increase our sales channels and opportunities in order to grow our revenues, and if we are unsuccessful, our operating results may be adversely affected. • Our sales cycles are time- consuming, and it is difficult for us to predict when or if sales will occur. • Our revenues are dependent on our ability to maintain and expand existing customer relationships and our ability to attract new customers. • The loss of one or more of our key customers could slow our revenue growth or cause our revenues to decline. • Because we recognize a majority of our subscription revenues from our customers over the term of their agreements, downturns or upturns in sales of our cloud- based solutions may not be immediately reflected in our operating results. • Our implementation cycle is lengthy and variable, depends upon factors outside our control and could cause us to expend significant time and resources prior to earning associated revenues ~~. • The COVID- 19 outbreak has had a material impact on the U. S. and global economies and could have a material adverse impact on our employees, suppliers and customers, which could adversely and materially impact our business, financial condition and results of operations~~ . • We depend on our management team and our key sales and development and services personnel, and the loss of one or more key employees or groups could harm our business and prevent us from implementing our business plan in a timely manner. • Our transition from an on- premise to a cloud- based business model is subject to numerous risks and uncertainties. • Our future growth is, in large part, dependent upon the increasing adoption of revenue management solutions. • We are highly dependent upon the life sciences industry, and factors that adversely affect this industry could also adversely affect us. • Our acquisition of other companies could require significant management attention, disrupt our business, dilute stockholder value and adversely affect our operating results. • We rely on third parties and their systems as we introduce a variety of new services, including the processing of transaction data and settlement of funds to us and our counterparties, and these third parties' failure to perform these services adequately could materially and adversely affect our business. • Failure to comply with applicable laws, regulations, or industry standards may harm our business and financial condition. • If our solutions do not interoperate with our customers' IT infrastructure, sales of our solutions could be negatively affected, which would harm our business. • If our solutions experience data security breaches, and there is unauthorized access to our customers' data, we may lose current or future customers, our reputation and business may be harmed, and we may incur significant liabilities. • Any failure to protect our intellectual property rights could impair our ability to protect our proprietary technology and our brand, which would substantially harm our business and operating results. • Our stock price may be volatile, and you may be unable to sell your shares at or above your purchase price. • Our indebtedness could adversely affect our business and limit our ability to expand our business or respond to changes, and we may be unable to generate sufficient cash flow to satisfy our debt service obligations. Risks Related to Our Financial Condition We have incurred net losses of $ **33. 9 million and $** 28. 6 ~~million and $ 29. 7~~ million for the fiscal years ended September 30, **2023 and** 2022 ~~and 2021~~ , respectively. As of September 30, ~~2022~~ **2023** , we had an accumulated deficit of $ ~~284~~ **296** . ~~4~~ **9** million. Our expenses may increase in future periods as we implement additional initiatives designed to grow our business, including, among other things, increasing sales to existing customers, expanding our customer base, introducing new applications, enhancing existing solutions, extending into the mid- market, and continuing to penetrate the technology industry ~~and integrating the personnel, products, technologies and customers from our acquisition of Deloitte & Touche LLP' s pricing and contracting solutions business~~ . Increased operating expenses related to personnel costs such as salary, bonus, commissions and stock- based compensation as well as third- party contractors, travel- related expenses and marketing programs may also increase our expenses in future periods. In the near- term, our revenues may not be sufficient to offset increases in operating expenses, and we expect that we will incur losses. Additionally, we may encounter unforeseen expenses, difficulties, complications, delays and other unknown factors that may result in losses in future periods. We cannot assure ~~you~~ **investors** that we will ~~again~~ obtain and maintain profitability in the future. Any failure to return to profitability may materially and adversely affect our business, results of operations and financial condition. Our operating results have historically varied from period to period, and we expect that this trend will continue as a result of a number of factors, many of which are outside of our control and may be difficult to predict, including: • our ability to increase sales to and renew agreements with our existing customers; • our ability to expand and improve the productivity of our direct sales force; • our ability to attract and retain new customers and to improve sales execution; • our ability to continue to transition our customers from an on- premise to a cloud- based business model; • the timing and volume of incremental customer purchases of our cloud- based solutions, which may vary from period to period based on a customer' s needs at a particular time; • our ability to successfully expand our business domestically and internationally; • disruptions in our relationships with partners; • the timing of new orders and revenue recognition for new and prior period orders; • changes in the competitive landscape of our industry, including mergers or consolidation among our customers or competitors; • the complexity of implementations and the scheduling and staffing of the related personnel, each of which can affect the timing and duration of revenue recognition; • issues related to changes in customers' business requirements, project scope, implementations or market needs; • the mix of revenues in any particular period between subscription and professional services; • the timing of upfront recognition of sales commission expense relative to the deferred recognition of our revenues; • the timing of recognition of payment of royalties; • the timing of our annual payment and recognition of employee non- equity incentive and bonus payments; • the budgeting cycles and purchasing practices of customers; • changes in customer requirements or market needs; • delays or reductions in information technology spending and resulting variability in customer orders from quarter to quarter; • delays or difficulties encountered during customer implementations, including customer requests for changes to the implementation schedule; • the timing and success of new product or service introductions by us or our competitors; • the amount and timing of any customer refunds or credits; • our ability to accurately estimate the costs associated with any fixed bid projects; • deferral of orders from customers in anticipation of new solutions or solution enhancements announced by us or our competitors; • the length of time for the sale and implementation of our solutions to be complete, and our level of upfront investments prior to the period we begin generating revenues associated with such investments; • the amount and timing of our operating expenses and capital expenditures, and our ability to timely repay our debt; • price competition; • the rate of expansion and productivity of our direct sales force; • regulatory compliance costs; • required modifications to our solutions or services in response to changes in law or regulations; • sales commissions expenses related to large transactions; • technical difficulties or interruptions in the delivery of our cloud- based solutions; • seasonality or cyclical fluctuations in our industries; • future accounting pronouncements or changes in our accounting policies, including the impact of the adoption and implementation of the Financial Accounting Standards Board' s new standard regarding revenue recognition; • increases or decreases in our expenses caused by fluctuations in foreign currency exchange rates, as a significant portion of our expenses are incurred and paid in currencies other than the U. S. dollar; • general economic conditions, both domestically and in our foreign markets; • global epidemics, pandemics, or contagious diseases ~~, such as COVID- 19~~ ; and • entry of new competitors into our market. Any one of the factors above or discussed elsewhere in this report or the cumulative effect of some of the factors referred to above may result in significant fluctuations in our financial and other operating results. This variability and unpredictability could result in our failure to meet expectations of investors for our revenues or other operating results for a particular period. If we fail to meet or exceed such expectations for these or any other reasons, the market price of our common stock could decrease. We must improve our sales execution in order to, among other things, increase the number of our sales opportunities and grow our revenue. We must improve the market awareness of our solutions and expand our relationships with our channel partners in order to increase our revenues. Further, we believe that we must continue to develop our relationships with new and existing customers and partners and create additional sales opportunities to effectively and efficiently extend our geographic reach and market penetration. Our efforts to improve our sales execution could result in a material increase in our sales and marketing expense and general and administrative expense, and there can be no assurance that such efforts will be successful. We have experienced challenges in sales execution in the past, and if we are unable to significantly improve our sales execution, increase the awareness of our solutions, create additional sales opportunities, expand our relationships with channel partners, leverage our relationship with strategic partners, or effectively manage the costs associated with these efforts, our operating results and financial condition could be materially and adversely affected. Our sales efforts are often targeted at larger enterprise customers, and as a result, we face greater costs, must devote greater sales support to individual customers, have longer sales cycles and have less predictability in completing some of our sales. Also, sales to large enterprises often require us to provide greater levels of education regarding the use and benefits of our solutions. We believe that our customers view the purchase of our solutions as a significant and strategic decision. As a result, customers carefully evaluate our solutions, often over long periods with a variety of internal constituencies. In addition, the sales of our solutions may be subject to delays if the customer has lengthy internal budgeting, approval and evaluation processes, which are quite common in the context of introducing large enterprise- wide technology solutions. As a result, it is difficult to predict the timing of our future sales. The continued growth of our revenues is dependent in part on our ability to expand the use of our solutions by existing customers and attract new customers. Likewise, it is also important that customers using our on- premise solutions renew their maintenance agreements and that customers using our cloud- based solutions renew their subscription agreements with us. Our customers have no obligation to renew their agreements after the expiration of the initial term, and there can be no assurance that they will do so. We have had in the past and may in the future have disputes with customers regarding our solutions, which may impact such customers' decisions to continue to use our solutions and pay for maintenance and support in the future. If we are unable to expand our customers' use of our solutions, sell additional solutions to our customers, maintain our renewal rates for maintenance and subscription agreements and expand our customer base, our revenues may decline or fail to increase at historical growth rates, which could adversely affect our business and operating results. In addition, if we experience customer dissatisfaction with customers in the future, we may find it more difficult to increase use of our solutions within our existing customer base and it may be more difficult to attract new customers, or we may be required to grant credits or refunds, any of which could negatively impact our operating results and materially harm our business. A substantial portion of our total revenues in any given period may come from a relatively small number of customers. As of September 30, ~~2022~~ **2023** , we had approximately ~~194~~ **182** customers. Although our largest customers typically change from period to period, for the fiscal year ended September 30, ~~2022~~ **2023** , our 15 largest customers accounted for ~~49~~ **53** % of our total revenues. During the fiscal year ended September 30, ~~2022~~ **2023** , no customer represented more than 10 % of our total revenues or more than 10 % of our subscription revenues. We expect that we will continue to depend upon a relatively small number of customers for a significant portion of our total revenues for the foreseeable future. The loss of any of our significant customers or groups of customers for any reason, or a change of relationship with any of our key customers may cause a significant decrease in our total revenues. Additionally, mergers or consolidations among our customers in the life sciences and high tech industries, both of which are currently undergoing significant consolidation, could reduce the number of our customers and could adversely affect our revenues and sales. In particular, if our customers are acquired by entities that are not also our customers, that do not use our solutions or that have more favorable contract terms and choose to discontinue, reduce or change the terms of their use of our solutions, our business and operating results could be materially and adversely affected. Subscription revenues primarily include contractual arrangements with customers accessing our cloud- based solutions and revenues associated with maintenance and support agreements from license customers. We recognize a majority of our subscription revenues over the term of our customer agreements, which, on average are typically one to three years. As a result, most of our quarterly subscription revenues result from agreements entered into during previous quarters. Consequently, a shortfall in sales of our cloud- based solutions or renewal of maintenance and support agreements in any quarter may not significantly reduce our subscription revenues for that quarter but may negatively affect subscription revenues in future quarters. Further, management measures sales performance and forecasts future **SaaS** subscription revenue based on the annualized value, or SaaS ARR, which is derived by ~~taking~~ **dividing** the SaaS portion of our recurring subscription revenue for the quarter, ~~dividing it~~ by the number of days in the quarter, and multiplying it by 365 to get an annualized number. Management also uses SaaS Net Dollar Retention, which uses the same SaaS ARR calculations to measure the percentage change in SaaS ARR from customers that are in both the current period and the year- ago period. The amount of subscription revenue we actually recognize may be different from ARR at the end of a period in which it was recorded. Accordingly, the effect of significant downturns in sales of our cloud- based solutions or renewals of our maintenance and support agreements may not be fully reflected in our results of operations until future periods. We may be unable to adjust our cost structure rapidly to compensate for this potential shortfall in subscription revenues, or at all, to take account of reduced revenue. Our revenue recognition model for our cloud- based solutions and maintenance and support agreements also makes it difficult for us to rapidly increase our revenues through additional sales in any period, as a significant amount of our revenues are recognized over the applicable agreement term. As a result, changes in the volume of sales of our cloud- based solutions or the renewals of our maintenance and support agreements in a particular period would not be fully reflected in our revenues until future periods. The implementation and testing of our solutions typically range from a few months to up to twelve months, and unexpected implementation delays and difficulties can occur including, but not limited to, those related to global epidemics, pandemics, or contagious diseases ~~, such as COVID- 19~~. Implementing our solutions typically involves integration with our customers' systems, as well as adding their data to our system. This can be complex, time- consuming and expensive for our customers and can result in delays in the implementation and deployment of our solutions. The lengthy and variable implementation cycle may also have a negative impact on the timing of our revenues, causing our revenues and results of operations to vary significantly from period to period. A substantial majority of our total revenues have come from sales and renewals of our enterprise cloud products, and decreases in demand for our enterprise cloud products could adversely affect our results of operations and financial condition. Historically, a substantial majority of our total revenues has been associated with our enterprise cloud products, whether deployed as individual solutions or as a complete suite. We expect our enterprise cloud products to continue to generate a substantial majority of our total revenues for the foreseeable future. Declines and variability in demand for our enterprise cloud products could occur for a number of reasons, including improved products or product versions being offered by competitors, competitive pricing pressures, failure to release new or enhanced versions on a timely basis, technological changes that we are unable to address or that change the way our customers utilize our solutions, reductions in technology spending, export restrictions or other regulatory or legislative actions that could limit our ability to sell those products to key customer or market segments. Our business, results of operations, financial condition and cash flows would be adversely affected by a decline in demand for our enterprise cloud products. Most of our implementation contracts are on a time and materials basis and may be terminated by the customer. The contracts under which we perform most of our implementation services may have a term typically ranging between a few months to up to twelve months and are on a time and materials basis and may be terminated by the customer at any time. If an implementation project is terminated sooner than we anticipated or a portion of the implementation is delayed, we would lose the anticipated revenues that we might not be able to replace or it may take significant time to replace the lost revenues with other work or we may be unable to eliminate the associated costs. Consequently, we may recognize fewer revenues than we anticipated or incur unnecessary costs, and our results of operations in subsequent periods could be materially lower than expected. We are exposed to fluctuations in currency exchange rates, which could negatively affect our financial condition and operating results. Our sales contracts are primarily denominated in U. S. dollars, and therefore, substantially all of our revenues are not subject to foreign currency risk. However, the continued strengthening of the U. S. dollar could increase the real cost of our solutions to our customers outside of the United States, which could adversely affect our financial condition and operating results. In addition, an increasing portion of our operating expenses are incurred in India, are denominated in Indian rupees and are subject to fluctuations due to changes in foreign currency exchange rates. While we recently began using foreign exchange forward contracts to hedge certain cash flow exposures resulting from changes in foreign currency exchange rates, this hedging strategy may not ultimately be effective and may adversely affect our financial condition and operating results. If we are required to collect sales and use taxes on the solutions we sell, we may be subject to liability for past sales and our future sales may decrease. State and local taxing jurisdictions have differing rules and regulations governing sales and use taxes, and these rules and regulations are subject to varying interpretations that may change over time. In particular, the applicability of sales taxes to our subscription services in various jurisdictions is unclear. Although we have historically collected and remitted sales tax in certain circumstances, it is possible that we could face sales tax audits and that our liability for these taxes could exceed our estimates as state tax authorities could still assert that we are obligated to collect additional amounts as taxes from our customers and remit those taxes to those authorities. We could also be subject to audits with respect to state and international jurisdictions for which we have not accrued tax liabilities. A successful assertion that we should be collecting additional sales or other taxes on our services in jurisdictions where we have not historically done so and do not accrue for sales taxes could result in substantial tax liabilities for past sales, discourage customers from purchasing our solutions or otherwise harm our business and operating results. If our estimates or judgments relating to our critical accounting policies are based on assumptions that change or prove to be incorrect, our operating results could fall below expectations of securities analysts and investors, resulting in a decline in our stock price. 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 Consolidated Financial Statements and accompanying notes. For example, our revenue recognition policy is complex and we often must make estimates and assumptions that could prove to be inaccurate. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about revenue recognition, capitalized software, the carrying values of assets, taxes, liabilities, equity, revenues and expenses that are not readily apparent from other sources. Our operating results may be adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our operating results to fall below the expectations of securities analysts and investors, resulting in a decline in our stock price. Significant assumptions and estimates used in preparing our Consolidated Financial Statements include those related to revenue recognition, share- based compensation and income taxes. We may need additional capital, and we cannot be certain that additional financing will be available. We may require additional financing in the future to operate or expand our business, acquire assets or repay or refinance our existing debt. Our ability to obtain financing will depend, among other things, on our development efforts, business plans, operating performance and condition of the capital markets at the time we seek financing. We cannot assure you that additional financing will be available to us on favorable terms when required, or at all. If we raise additional funds through the issuance of equity, equity- linked or debt securities, those securities may have rights, preferences or privileges senior to the rights of our common stock, notes, or preferred stock, and our stockholders may experience dilution. If we need additional capital and cannot raise it on acceptable terms, we may not be able to, among other things: • develop or enhance our solutions; • continue to expand our sales and marketing and research and development organizations; • repay or refinance our existing debt; • acquire complementary technologies, solutions or businesses; • expand operations, in the United States or internationally; • hire, train and retain employees; or • respond to competitive pressures or unanticipated working capital requirements. Our failure to do any of these things could seriously harm our business, financial condition, and operating results. Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations. In general, under Section 382 of the U. S. Internal Revenue Code of 1986, as amended (Code), and similar state law provisions, a corporation that undergoes an “ ownership change ” is subject to limitations on its ability to utilize its pre-change net operating losses (“ NOLs ”) to offset future taxable income. If our existing NOLs are subject to limitations arising from ownership changes, our ability to utilize NOLs could be limited by Section 382 of the Code. Future changes in our stock ownership, some of which are outside of our control, also could result in an ownership change under Section 382 of the Code. There is also a risk that our NOLs could expire, or otherwise be unavailable to offset future income tax liabilities due to changes in the law, including regulatory changes, such as suspensions on the use of NOLs or other unforeseen reasons. Additionally, the CARES Act, among other things, permits NOL carryovers and carrybacks to offset 100 % of taxable income for taxable years beginning before 2021. The CARES Act also temporarily repealed the 80 % taxable income limitation for tax years beginning before January 1, 2021; net operating loss carried forward generated from 2018 or later and carryforwards to taxable years beginning after December 31, 2020 will be subject to the 80 % limitation. Under the CARES Act, net operating losses arising in 2018, 2019 and 2020 can be carried back 5 years. Risks Related to Our Business and Industry Our success depends on the expertise, efficacy and continued services of our executive officers, who are geographically dispersed. We have in the past and may in the future continue to experience changes in our executive management team resulting from the departure of executives or subsequent hiring of new executives, which may be disruptive to our business. Any changes in business strategies or leadership can create uncertainty, may negatively impact our ability to execute our business strategy quickly and effectively and may ultimately be unsuccessful. The impact of hiring new executives may not be immediately realized. We are also substantially dependent on the continued service of our existing development and services personnel because of their familiarity with the inherent complexities of our solutions. Our personnel do not have employment arrangements that require them to continue to work for us for any specified period and, therefore, they could terminate their employment with us at any time. We do not maintain key personnel life insurance policies on any of our employees. The loss of one or more of our key employees or groups could seriously harm our business. Our business model has shifted away from sales of on- premise software licenses to focus on sales of subscriptions for our cloud- based solutions, which provide our customers the right to access certain of our software in a hosted environment for a specified subscription period. This cloud- based strategy may give rise to a number of risks, including the following: • if customers are uncomfortable with cloud- based solutions and desire only perpetual licenses, we may experience longer than anticipated sales cycles and sales of our cloud- based solutions may lag behind our expectations; • our cloud- based strategy may raise concerns among our customer base, including concerns regarding changes to pricing over time, service availability, information security of a cloud- based solution and access to files while offline or once a subscription has expired; • we may be unsuccessful in maintaining our target pricing, adoption and projected renewal rates; • we may select a target price that is not optimal and could negatively affect our sales or earnings; and • we may incur costs at a higher than forecasted rate as we expand our cloud- based solutions. Our cloud- based strategy also requires a considerable investment of technical, financial, legal and sales resources, and a scalable organization. Market acceptance of such offerings is affected by a variety of factors, including but not limited to: security, reliability, scalability, customization, performance, current license terms, customer preference, customer concerns with entrusting a third party to store and manage their data, public concerns regarding privacy and the enactment of restrictive laws or regulations. Whether our business model transition will prove successful and will accomplish our business and financial objectives is subject to numerous uncertainties, including but not limited to: customer demand, renewal rates, channel acceptance, our ability to further develop and scale infrastructure, our ability to include functionality and usability in such solutions that address customer requirements, tax and accounting implications, pricing and our costs. In addition, the metrics we use to gauge the status of our business may evolve over the course of the transition as significant trends emerge. If we are unable to successfully execute our cloud- based strategy and navigate our business model transition in light of the foregoing risks and uncertainties, our results of operations could be negatively impacted. Revenue management is at an early stage of market development and adoption, and the extent to which revenue management solutions will become widely adopted remains uncertain. It is difficult to predict customer adoption rates, customer demand for revenue management solutions, including our solutions in particular, the future growth rate and size of this market and the timing of the introduction of additional competitive solutions. Any expansion of the revenue management market depends on a number of factors, including the cost, performance and perceived value associated with revenue management solutions. For example, many companies have invested substantial personnel, infrastructure and financial resources in other revenue management infrastructure and therefore may be reluctant to implement solutions such as ours. Additionally, organizations that use legacy revenue management products may believe that these products sufficiently address their revenue management needs. Because this market is relatively undeveloped, we must spend considerable time educating customers as to the benefits of our solutions. If revenue management solutions do not achieve widespread adoption, or if there is a reduction in demand for revenue management solutions caused by a lack of customer acceptance, technological challenges, competing technologies and products, decreases in corporate spending or otherwise, it could result in lower sales, reduced renewal and upsell rates and decreased revenues and our business could be adversely affected. Our future growth depends, in large part, upon continued sales to companies in the life sciences industry ~~, and our recent acquisition of Deloitte & Touche LLP' s pricing and contracting solutions business may increase our dependency~~ . Demand for our solutions could be affected by factors that adversely affect demand for the underlying life sciences products and services that are purchased and sold pursuant to contracts managed through our solutions. The life sciences industry is affected by certain factors, including the emergence of large group purchasing and managed care organizations and integrated healthcare delivery networks, increased customer and channel incentives and rebates, the shift of purchasing influence from physicians to economic buyers, increased spending on healthcare by governments instead of commercial entities and increased scope of government mandates, frequency of regulatory reporting and audits, fines, and global epidemics, pandemics, or contagious diseases ~~, such as COVID- 19~~ . Accordingly, our future operating results could be materially and adversely affected as a result of factors that affect the life sciences industry generally. Failure to adequately expand and train our direct sales force will impede our growth. We rely almost exclusively on our direct sales force to sell our solutions. We believe that our future growth will depend, to a significant extent, on the continued development of our direct sales force and its ability to manage and retain our existing customer base, expand the sales of our solutions to existing customers and obtain new customers. Because our software is complex and often must interoperate with complex computing requirements, it can take longer for our sales personnel to become fully productive compared to other software companies. Our ability to achieve significant growth in revenues in the future will depend, in large part, on our success in recruiting, training and retaining a sufficient number of direct sales personnel. New hires require significant training and may, in some cases, take more than a year before becoming fully productive, if at all. If we are unable to hire and develop sufficient numbers of productive direct sales personnel, and if these sales personnel are unable to achieve full productivity, sales of our solutions will suffer and our growth will be impeded. As part of our business strategy, we have in the past and may in the future make investments in other companies, solutions or technologies to, among other reasons, expand or enhance our product offerings. In the future, any significant acquisition would require the consent of our lenders. Any failure to receive such consent could delay or prohibit us from acquiring companies that we believe could enhance our business. We may not ultimately strengthen our competitive position or achieve our goals from any recent or any future acquisition, and any acquisitions we complete could be viewed negatively by users, customers, partners or investors. In addition, if we fail to integrate successfully such acquisitions, or the technologies associated with such acquisitions, into our company, the revenues and operating results of the combined company could be adversely affected. In addition, we may not be able to successfully retain the customers and key personnel of such acquisitions over the longer term, which could also adversely affect our business. The integration of any recently- acquired business or future- acquired business will require significant time and resources, and we may not be able to manage the process successfully. We may not successfully evaluate or utilize the acquired technology and accurately forecast the financial impact of the acquisition, including accounting charges. It is also possible that a governmental entity could initiate an antitrust investigation at any time. Among other things, an investigation that is resolved unfavorably to us could delay or prevent the completion of a transaction, require us to divest or sell the assets or businesses we acquired, limit the ability to realize the expected financial or strategic benefits of a transaction or have other adverse effects on our current business and operations. We may have to pay cash, incur debt or issue equity securities to pay for any acquisition, each of which could affect our financial condition or the value of our capital stock. ~~For example, in connection with our acquisition of Deloitte & Touche LLP' s pricing and contracting solutions business, we paid approximately $ 60. 0 million in cash.~~ To fund any future acquisition, we may issue equity, which would result in dilution to our stockholders, or incur more debt, which would result in increased fixed obligations and could subject us to additional covenants or other restrictions that would impede our ability to manage our operations. Uncertainty in global economic conditions may adversely affect our business, operating results or financial condition. Our operations and performance depend on global economic conditions. Challenging or uncertain economic conditions including those related to global epidemics, pandemics, or contagious diseases, ~~such as COVID- 19,~~ geopolitical turmoil, and macroeconomic conditions, inflation, fluctuations in foreign exchange rates **, instability in the global banking system, disruptions in supply chains** and interest rates, make it difficult for our customers and potential customers to accurately forecast and plan future business activities and may cause our customers and potential customers to slow or reduce spending, or vary order frequency, on our solutions. Furthermore, during challenging or uncertain economic times, our customers may face difficulties gaining timely access to sufficient credit and experience decreasing cash flow, which could impact their willingness to make purchases and their ability to make timely payments to us. Global economic conditions have in the past and could continue to have an adverse effect on demand for our solutions, including new bookings and renewal and upsell rates, on our ability to predict future operating results and on our financial condition and operating results. If global economic conditions remain uncertain or deteriorate, it may materially impact our business, operating results and financial condition **. Moreover, on March 10, 2023, Silicon Valley Bank (" SVB ") was closed by the California Department of Financial Protection and Innovation and subsequently appointed the Federal Deposit Insurance Corporation (" FDIC ") as receiver. Similarly, on March 12, 2023, Signature Bank and Silvergate Capital Corp. were each swept into receivership, and in May 2023, First Republic Bank was also closed and taken over by the FDIC. While the FDIC has taken steps to make whole all depositors of SVB, and other similarly situated banks, there is no assurance that similar guarantees will be made in the event of further bank closures and continued instability in the global banking system. If other banks and financial institutions enter receivership or become insolvent in the future in response to financial conditions affecting the banking system and financial markets, then our ability to obtain financing may be threatened, which could have a material adverse effect on our business and financial condition. Moreover, events such as the closure of SVB, in addition to other global macroeconomic conditions, may cause further turbulence and uncertainty in the capital markets** . To provide our managed operations and payments solution and other products and services, we rely on third parties that we do not control, such as financial institution partners, and systems like the Federal Reserve Automated Clearing House, and other partners. We rely on these third parties for a variety of services, including the transmission of transaction data, settlement of funds, and the provision of information and other elements of our services. For example, we directly or indirectly rely on banking institutions to facilitate payment settlement. If such banking institution should stop providing the underlying services, we must find other financial institutions to provide those services. If we are unable to find a replacement financial institution, we may no longer be able to provide processing services to certain customers, which could negatively affect our operations or cash flows. Our customers often require significant configuration efforts to match their complex business processes. The failure to meet their requirements could result in customer disputes, loss of anticipated revenues and additional costs, which could harm our business. Our customers often require significant configuration services to address their unique business processes. Supporting such a diversity of configured settings and implementations could become difficult as the number of customers we serve grows. In addition, supporting our customers could require us to devote significant development services and support personnel and strain our personnel resources and infrastructure. We have had in the past and may in the future have disputes with customers regarding the performance and implementation of our solutions. If we are unable to address the needs of our customers in a timely fashion, our customers may decide to seek to terminate their relationship, renew on less favorable terms, not renew their maintenance agreements or subscriptions, fail to purchase additional solutions or services, assert legal claims against us or cease to be a reference. If any of these were to occur, our revenues may decline or we may be required to refund amounts to customers and our operating results may be harmed. If we are unable to enhance existing solutions and develop new solutions that achieve market acceptance or that keep pace with technological developments, our business could be harmed. Our ability to increase revenues from existing customers and attract new customers depends in large part on our ability to enhance and improve our existing solutions and to develop and introduce new solutions. The success of any enhancement or new solutions depends on several factors, including timely completion, adequate quality testing, introduction and market acceptance. Any enhancement or new solutions that we develop or acquire may not be introduced in a timely or cost- effective manner, may contain defects or may not achieve the broad market acceptance necessary to generate significant revenues. If we are unable to successfully enhance our existing solutions and develop new solutions to meet customer requirements, our business and operating results will be adversely affected. Because we designed our solutions to operate on a variety of network, hardware and software platforms, we will need to continuously modify and enhance our solutions to keep pace with changes in networking, internet- related hardware, and software, communication, browser and database technologies. If we are unable to respond in a timely manner to these rapid technological developments in a cost- effective manner, our solutions may become less marketable and less competitive or obsolete and our operating results may be negatively impacted. Our efforts to expand the adoption of our solutions in the technology industry will be affected by our ability to provide solutions that adequately address trends in that industry. We are attempting to expand the use of our solutions by companies in the technology industry, and our future growth depends in part on our ability to increase sales of solutions to customers in this industry and potentially other industries. The technology industry is affected by many factors, including shortening of product lifecycles, core technology products being sold into different end markets with distinct pricing, increasing complexity of multi- tiered global distribution channels, changing financial reporting requirements due to channel complexity and increasing use of off- invoice discounting. If our solutions are not perceived by existing or potential customers in the technology industry as capable of providing revenue management tools that will assist them in adequately addressing these trends, then our efforts to expand the adoption of our solutions in this industry may not be successful, which would adversely impact our business and operating results. The market for cloud- based solutions is at an earlier stage of acceptance relative to on- premise solutions, and if it develops more slowly than we expect, our business could be harmed. Although gaining wider acceptance, the market for cloud- based solutions is at an early stage relative to on- premise solutions, and these types of deployments may not achieve and sustain high levels of demand and market acceptance. We plan to accelerate the shift in our business model to recurring revenues, including revenues derived from our cloud- based solutions, by continuing to expand the implementation of our cloud- based solutions both within our current installed base of customers as well as new customers and additional markets in the future. Many companies have invested substantial personnel and financial resources to integrate traditional enterprise software into their businesses, and therefore may be reluctant or unwilling to migrate to a cloud- based solution. Other factors that may affect the market acceptance of cloud- based solutions include: • perceived security capabilities and reliability; • perceived concerns about ability to scale operations for large enterprise customers; • concerns with entrusting a third party to store and manage critical data; • the level of configurability or customizability of the solutions; and • ability to perform at or near the capabilities of our on- premise solutions. If organizations do not perceive the benefits of our cloud- based solutions, or if our competitors or new market entrants are able to develop cloud- based solutions that are or are perceived to be more effective than ours, our plan to accelerate the shift in our business model to recurring revenues may not succeed or may develop more slowly than we expect, if at all, or may result in short- term declines in recognized revenue, any of which would adversely affect our business. If we or our solutions fail to perform properly, our reputation and customer relationships could be harmed, our market share could decline, and we could be subject to liability claims. Our solutions are inherently complex and may contain material vulnerabilities, defects or errors. Any defects in solution functionality or that cause interruptions in availability could result in: • lost or delayed market acceptance and sales; • reductions in current- period total revenues; • breach of warranty or other contract breach or misrepresentation claims; • sales credits or refunds to our customers; • loss of customers; • diversion of development and customer service resources; and • injury to our reputation. The costs incurred in correcting any material vulnerabilities, defects or errors might be substantial and could adversely affect our operating results. Because our customers often use our solutions as a system of record and many of our customers are subject to regulation of pricing of their products or otherwise have complex pricing commitments and revenue recognition policies, errors could result in an inability to process sales or lead to a violation of pricing requirements or misreporting of revenues by our customers that could potentially expose them to fines or other substantial claims or penalties. Accordingly, we could face increased exposure to product liability and warranty claims, litigation and other disputes and claims, resulting in potentially material losses and costs. Our limitation of liability provisions in our customer agreements may not be sufficient to protect us against any such claims. Given the large amount of data that our solutions process and manage, it is possible that failures, vulnerabilities or errors in our software could result in unauthorized access, data loss or corruption, or cause the information that we process to be incomplete or contain inaccuracies that our customers regard as significant. We may be required to issue credits or refunds or indemnify or otherwise be liable to our customers or third parties for damages they may incur resulting from certain of these events. Our insurance may be inadequate or may not be available in the future on acceptable terms, or at all. In addition, our policy may not cover any claim against us for claims related to any product defects or errors or other indirect or consequential damages and defending a suit, regardless of its merit, could be costly and divert management' s attention. The market in which we participate is highly competitive, and if we do not compete effectively, our operating results could be harmed. The market for revenue management solutions is highly competitive, fragmented and subject to rapid changes in technology. We face competition from spreadsheet- assisted manual processes, internally developed solutions, large integrated systems vendors, providers of business process outsourcing services and smaller companies that offer point solutions. Companies lacking IT resources often resort to spreadsheet- assisted manual processes or personal database applications. In addition, some potential customers, particularly large enterprises, may elect to develop their own internal solutions, including custom- built solutions that are designed to support the needs of a single organization. Companies with large investments in packaged ERP or CRM applications, which do not typically provide revenue management capabilities, may extend these horizontal applications with configurations or point solution applications in order to address one or a small set of revenue management sub processes or drivers. Common horizontal applications that customers attempt to configure for this purpose in the life sciences and high tech industries include large integrated systems vendors like SAP SE and Oracle Corporation. We also encounter competition from small independent companies which compete based on price, unique product features or functions and custom developments. Many of our competitors have greater name recognition, larger sales and marketing budgets and greater resources than we do and may have pre- existing relationships with our potential customers, including relationships with, and access to, key decision makers within these organizations, and major distribution agreements with consultants and system integrators. Moreover, many software vendors could bundle solutions or offer them at a low price as part of a larger product sale. With the introduction of new technologies and market entrants, we expect competition to intensify in the future. We also expect enterprise software vendors that focus on enterprise resource planning or back- office applications to enter our market with competing products. In addition, we expect sales force automation vendors to acquire or develop additional solutions that may compete with our solutions. If we fail to compete effectively, our business will be harmed. In addition, pricing pressures and increased competition generally could result in reduced sales, reduced margins, losses or the failure of our solutions to achieve or maintain more widespread market acceptance, any of which could harm our business. If we are not able to maintain and enhance our brand, our business and operating results may be adversely affected. We believe that maintaining and enhancing the " Model N " brand identity is critical to our relationships with our customers and partners and to our ability to attract new customers and partners. The successful promotion of our brand will depend largely upon our marketing efforts, our ability to continue to offer high- quality solutions and our ability to successfully differentiate our solutions from those of our competitors. Our brand promotion activities may not be successful or yield increased revenues. In addition, independent industry analysts often provide reviews of our solution, as well as those of our competitors, and perception of our solution in the marketplace 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. Further, stockholder activism has been increasing in recent years. Any such activism or public criticism of our company or management team may harm our brand and reputation. 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 and as we expand into new verticals within the life sciences and high tech industries. To the extent that these activities yield increased revenues, these revenues 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 with stronger brands and we could lose customers, partners, current employees and prospective employees, all of which would adversely affect our business operations and financial results. If we are unable to maintain successful relationships with system integrators, our business operations, financial results and growth prospects could be adversely affected. Our relationships with system integrators are generally non- exclusive, which means they may recommend to their customers the solutions of several different companies, including solutions that compete with ours, and they may also assist in the implementation of software or systems that compete with ours. If our system integrators do not choose to continue to refer our solutions, assist in implementing our solutions, choose to use greater efforts to market and sell their own solutions or those of our competitors, or fail to meet the needs of our customers, our ability to grow our business and sell our solutions may be adversely affected. The loss of a substantial number of our system integrators, our possible inability to replace them or the failure to recruit additional system integrators could harm our business. Our ability to achieve revenue growth in the future will depend in part on our success in maintaining successful relationships with our system integrators and in helping our system integrators enhance their ability to independently market and implement our solutions. Our growth in revenues, particularly in international markets, will be influenced by the development and maintenance of relationships with these companies. Although we have established relationships with some of the leading system integrators, our solutions compete directly against the solutions of other leading system integrators. We are unable to control the resources that our system integrators commit to implementing our solutions or the quality of such implementation. If they do not commit sufficient resources to these activities, or if we are unable to maintain our relationships with these system integrators or otherwise develop and expand our indirect distribution channel, our business, results of operations, financial condition or cash flows could be adversely affected. Any failure to offer high- quality customer support for our cloud platform may adversely affect our relationships with our customers and harm our financial results. Once our solutions are implemented, our customers use our support organization to resolve technical issues relating to our solutions. In addition, we also believe that our success in selling our solutions is highly dependent on our business reputation and on favorable recommendations from our existing customers. Any failure to maintain high- quality customer support, or a market perception that we do not maintain high- quality support, could harm our reputation, adversely affect our ability to maintain existing customers or sell our solutions to existing and prospective customers, and harm our business, operating results and financial condition. We may be unable to respond quickly enough to accommodate short- term increases in customer demand for support services. Increased customer demand for these services, without corresponding revenues, could also increase costs and adversely affect our operating results. Incorrect or improper implementation or use of our solutions could result in customer dissatisfaction and negatively affect our business, operations, financial results and growth prospects. Our customers and third- party partners may need training in the proper use of and the variety of benefits that can be derived from our solutions to maximize their potential. We have implemented the Model N Align Program, which gives our customers full access to expert knowledge through a portal for easy and fast access to information, experienced customer success managers and defined customer success plans, in order to help our customers maximize the value of our solutions. However, our customers may choose not to use such programs or may not use such programs efficiently or effectively and as a result may become dissatisfied with our solutions. If our solutions are not implemented or used correctly or as intended, inadequate performance may result. Since our customers rely on our solutions and customer support to manage key areas of their businesses, the incorrect or improper implementation or use of our solutions, our failure to train customers on how to efficiently and effectively use our solutions or our failure to provide services to our customers, may result in negative publicity, failure of customers to renew their SaaS maintenance agreements or subscriptions or potentially make legal claims against us. Also, as we continue to expand our customer base, any failure by us to properly provide these services will likely result in lost opportunities for follow- on sales of our solutions. Competition for our target employees is intense, and we may not be able to attract and retain the quality employees we need to support our planned growth. Our future success depends, in part, upon our ability to recruit and retain key management, technical, sales, marketing, finance, and other critical personnel. Competition for qualified management, technical and other personnel is intense, and we may not be successful in attracting and retaining such personnel. If we fail to attract and retain qualified employees, including internationally, our ability to grow our business could be harmed. Competition for people with the specific skills that we require is significant. In order to attract and retain personnel in a competitive marketplace, we believe that we must provide a competitive compensation package, including cash and equity- based compensation. Volatility in our stock price may from time to time adversely affect our ability to recruit or retain employees. If we are unable to hire and retain qualified employees, or conversely, if we fail to manage employee performance or reduce staffing levels when required by market conditions, our business and operating results could be adversely affected. Our significant international operations subject us to additional risks that can adversely affect our business, results of operations and financial condition. We have significant international operations, including in emerging markets such as India, and we are continuing to expand our international operations as part of our growth strategy. As of September 30, ~~2021~~ **2023** , approximately ~~44~~ **47** % of our total employees were located in India, where we conduct a portion of our development activities, implementation services and support services. Our current international operations and our plans to expand our international operations have placed, and will continue to place, a strain on our employees, management systems and other resources. Operating in international markets requires significant resources and management attention and will subject us to regulatory, economic and political risks and competition that are different from those in the United States. Because of our limited experience with international operations, we cannot assure you that our international expansion efforts will be successful or that returns on such investments will be achieved in the future. In addition, our international operations may fail to succeed due to other risks inherent in operating businesses internationally, including: • our lack of familiarity with commercial and social norms and customs in countries which may adversely affect our ability to recruit, retain and manage employees in these countries; • difficulties and costs associated with staffing and managing foreign operations; • the potential diversion of management' s attention to oversee and direct operations that are geographically distant from our U. S. headquarters; • compliance with multiple, conflicting and changing governmental laws and regulations, including employment, tax, privacy and data protection laws and regulations; • legal systems in which our ability to enforce and protect our rights may be different or less effective than in the United States and in which the ultimate result of dispute resolution is more difficult to predict; • greater difficulty collecting accounts receivable and longer payment cycles; • higher employee costs and difficulty in terminating non- performing employees; • differences in workplace cultures; • unexpected changes in regulatory requirements; • the need to adapt our solutions for specific countries; • our ability to comply with differing technical and certification requirements outside the United States; • tariffs, export controls and other non- tariff barriers such as quotas and local content rules; • more limited protection for intellectual property rights in some countries; • adverse tax consequences, including as a result of transfer pricing adjustments involving our foreign operations; • fluctuations in currency exchange rates; • anti- bribery compliance by us or our partners; • restrictions on the transfer of funds; • ~~global epidemics, pandemics, or contagious diseases; •~~ general macroeconomic conditions, including rising interest rates and inflation, slower growth or recession **, instability in the global banking system** ; • geopolitical turmoil **, such as the wars in Ukraine and Israel** ; and • new and different sources of competition. Our failure to manage any of these risks successfully could harm our existing and future international operations and seriously impair our overall business. Risks Related to Regulatory Compliance Changes in privacy laws, regulations and standards may cause our business to suffer. Personal privacy and data security have become significant issues in the United States, Europe and in many other jurisdictions where we offer our solutions. The regulatory framework for privacy and security issues worldwide is rapidly evolving and is likely to remain uncertain for the foreseeable future. For example, the Court of Justice of the European Union (" ECJ ") ruled ~~in October 2015 that the US- EU Safe Harbor framework was invalid, and~~ on July 16, 2020, ~~invalidated its successor program~~ the ~~US~~ **U. S.** - ~~EU~~ **E. U.** Privacy Shield as ~~a~~ **an invalid** mechanism for managing personal data transfers between the European Union and the United States (and other countries). While the ECJ upheld the adequacy of ~~EU~~ **E. U.** - specified standard contractual clauses (a form of contract approved by the ~~EU~~ **European** ~~commission~~ **Commission** as an adequate data transfer mechanism), it made clear that reliance on them alone may not necessarily be sufficient in all circumstances and that their use must be assessed on a case- by- case basis taking into account the surveillance laws and right of individuals in the destination country. The ECJ went on to state that, if the competent supervisory authority believes that the standard contractual clauses cannot be complied with in the recipient country and the required level of protection cannot be secured by other means, such supervisory authority is under an obligation to suspend or prohibit that transfer unless the data exporter has already done so itself. Further, on June 4, 2021 the European Commission finalized new versions of the Standard Contractual Clauses, with the Implementing Decision now in effect as of June 27, 2021. Under the Implementing Decision, we **had** ~~will have~~ until December 27, 2022 to update any existing agreements, or any new agreements executed before September 27, 2021, that rely on Standard Contractual Clauses as the data transfer mechanism. To comply with the Implementing Decision and the new Standard Contractual Clauses, we may need to implement additional safeguards to further enhance the security of data transferred out of the EEA, which could increase our compliance costs, expose us to further regulatory scrutiny and liability, and adversely affect our business. We rely on a mixture of mechanisms to transfer personal data from our ~~EU~~ **E. U.** business to the U. S. (including having previously relied on ~~US~~ **U. S.** - ~~EU~~ **E. U.** Privacy Shield) and are evaluating what additional mechanisms may be required to establish adequate safeguards for personal data transfer. **We are currently tracking recent developments regarding the European Commission' s July 10, 2023 adoption of an adequacy decision for the E. U.- U. S. Data Privacy Framework, a cooperative effort between U. S. and European officials to overcome the security issues raised by the U. S.- E. U. Privacy Shield regarding personal transfers from the E. U. to the United States. While we don' t anticipate any immediate changes in our current operations, we will observe how legal challenges may shape this framework and how it may lead to opportunities that will facilitate cross- border personal data flows between the E. U. and the U. S. and potentially result in lower costs to conduct business.** Furthermore, federal, state or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws and regulations affecting data privacy. Evolving and changing definitions of personal data and personal information, within the European Union, the United States, and elsewhere, especially relating to classification of IP addresses, machine identification, location data, and other information, may limit or inhibit our ability to operate or expand our business, including limiting strategic partnerships that may involve the sharing of data. For example ~~, California recently enacted legislation~~ , the California Consumer Privacy Act (CCPA), ~~that~~ **in effect from January 1, 2020 through December 31, 2022, and, required** , among other things, ~~requires~~ covered companies to provide ~~new~~ **certain** disclosures to California consumers, and afford such consumers ~~new~~ **the** ~~abilities~~ **ability** to opt out of certain sales of personal information. **On** ~~The CCPA took effect on~~ January 1, ~~2020~~ **2023** ~~and became enforceable by the California Attorney General on July 1, 2020. The CCPA has been amended on multiple occasions and additional regulations of the California Attorney General came into effect on August 14, 2020 and were most recently amended on March 15, 2021. However, aspects of the CCPA and its interpretation remain unclear. The effects of the CCPA are significant and may require us to modify our data processing practices and policies and to incur substantial costs and expenses in an effort to comply. Moreover~~ , a new privacy law, the California Privacy Rights Act (CPRA) **amended and expanded** ~~was recently approved by California voters in connection with~~ the **CCPA** ~~election on November 3, 2020~~ . The CPRA ~~creates obligations relating to consumer data beginning on January 1, 2022, with implementing regulations expected on or before July 1, 2022, and enforcement beginning July 1, 2023. The CCPA~~ requires ~~(and the CPRA will require)~~ covered companies to, among other things, provide new disclosures to California consumers, **businesses and employees,** and affords such consumers **, businesses and employees** new privacy rights such as the ability to opt- out of certain sales of personal information and expanded rights to access and require deletion of their personal information, opt out of certain personal information sharing, and receive detailed information about how their personal information is collected, used and shared. The ~~CCPA~~ - **CPRA** provides for civil penalties for violations, as well as a private right of action for security breaches that may increase security breach litigation. Potential uncertainty surrounding ~~the CCPA and~~ CPRA may increase our compliance costs and potential liability, particularly in the event of a data breach, and could have a material adverse effect on our business, including how we use personal information, our financial condition, the results of our operations or prospects. The CCPA **and**

CPRA has also prompted a number of proposals for new federal and state privacy legislation that, if passed, could increase our potential liability, increase our compliance costs and adversely affect our business. ~~Two~~ **As of October 2023, at least eleven additional** states have recently passed personal information laws ~~: the Colorado~~ **and at least seven additional states have active, pending** ~~Privacy~~ **privacy bills** ~~Act, which goes in effect on July 1, 2023; and Virginia' s Consumer Data Protection Act, which goes in effect on January 1, 2023~~ . Industry organizations also regularly adopt and advocate for new standards in this area. In the United States, these include rules and regulations promulgated under the authority of federal agencies and state attorneys general and legislatures and consumer protection agencies. In many jurisdictions, enforcement actions and consequences for noncompliance are also rising. In addition to government regulation, privacy advocates and industry groups may propose new and different self- regulatory standards that either legally or contractually applies to us. Internationally, many jurisdictions in which we operate have established their own data security and privacy legal framework with which we or our customers must comply, including but not limited to, the European General Data Protection Regulation (GDPR), which imposes additional obligations and risks upon our business. Notably, the U. K. implemented the Data Protection Act, effective May 2018 and statutorily amended in 2019, that contains provisions, including its own derogations, for how GDPR is applied in the U. K. These developments in the European Union could increase the risk of non- compliance and the costs of providing our products and services in a compliant manner. From the beginning of 2021 (when the transitional period following Brexit expired), we have to continue to comply with the GDPR and also the Data Protection Act, with each regime having the ability to fine up to the greater of € 20 million (£ 17. 5 million) or 4 % of global turnover. The relationship between the U. K. and the ~~EU~~ **E. U.** remains uncertain, for example how data transfers between the U. K. and the ~~EU~~ **E. U.** and other jurisdictions will be treated and the role of the U. K.' s supervisory authority. For example, on June 28, 2021, the European Commission adopted the adequacy decision (~~UK~~ **U. K.** Adequacy Decision) in the wake of a non- binding vote by the European Parliament against the then- Draft ~~UK~~ **U. K.** Adequacy Decision the month prior. Consequently, personal data can continue to flow from the EEA to the U. K. without the need for appropriate safeguards. The ~~UK~~ **U. K.** Adequacy Decision includes a " sunset clause ", rendering the decision valid for four years only, after which it will be reviewed by the European Commission and renewed only if the European Commission considers that the U. K. continues to ensure an adequate level of data protection. The European Commission also stated that it would intervene at any point within the four years if the U. K. deviates from the level of protection presently in place. If this adequacy decision is reversed by the European Commission, it would require that companies implement protection measures such as the Standard Contractual Clauses for data transfers between the ~~EU~~ **E. U.** and the ~~UK~~ **U. K** . These changes will lead to additional costs as we try to ensure compliance with new privacy legislation and will increase our overall risk exposure. We have incurred substantial expense in complying with the obligations imposed by the GDPR and we may be required to make further significant changes in our business operations as regulatory guidance changes, all of which may adversely affect our revenue and our business overall. Despite our efforts to attempt to comply with the GDPR, a regulator may determine that we have not done so and subject us to fines and public censure, which could harm our company. Any inability to adequately address privacy and security concerns, even if unfounded, or comply with applicable privacy and data security laws, regulations and policies, could result in additional cost and liability to us, damage our reputation, inhibit sales and adversely affect our business. Furthermore, the costs of compliance with, and other burdens imposed by, the laws, regulations, and policies that are applicable to the businesses of our customers may limit the use and adoption of, and reduce the overall demand for, our solutions. Privacy and data security concerns, whether valid or not valid, may inhibit market adoption of our solutions, particularly in foreign countries. If we are not able to adjust to changing laws, regulations and standards related to privacy or security, our business may be harmed. As mentioned, changing definitions of personal data and information may also limit or inhibit our ability to operate or expand our business, including limiting strategic partnerships that may involve the sharing of data. Also, some jurisdictions require that certain types of data be retained on servers within these jurisdictions. Our failure to comply with applicable laws, directives, and regulations may result in enforcement action against us, including fines, and damage to our reputation, any of which may have an adverse effect on our business and operating results. Failure to comply with certain certifications and standards pertaining to our solutions, as may be required by governmental authorities or other standards- setting bodies could harm our business. Additionally, failure to comply with governmental laws and regulations could harm our business. Customers may require our solutions to comply with certain security or other certifications and standards, which are promulgated by governmental authorities or other standards- setting bodies. The requirements necessary to comply with these certifications and standards are complex and often change significantly. If our solutions are late in achieving or fail to achieve compliance with these certifications and standards, including when they are revised or otherwise change, or our competitors achieve compliance with these certifications and standards, we may be disqualified from selling our solutions to such customers, or at a competitive disadvantage, which would harm our business, operating results and financial condition. We are subject to governmental export and import controls that could subject us to liability or impair our ability to compete in international markets. U. S. export control laws and economic sanctions prohibit the shipment of certain products to U. S. embargoed or sanctioned countries, governments and persons. If we were to fail to comply with U. S. export licensing requirements, U. S. customs regulations, U. S. economic sanctions or other laws, we could be subject to substantial civil and criminal penalties, including fines, incarceration for responsible employees and managers, and the possible loss of export or import privileges. In addition, even though we take precautions to ensure that our channel partners comply with all relevant regulations, any failure by our channel partners to comply with such regulations could have negative consequences, including reputational harm, government investigations and penalties. Furthermore, we incorporate encryption technology into our solutions. Various countries regulate the import of certain encryption technology, including through import permit and license requirements, and have enacted laws that could limit our ability to distribute our solutions or could limit our customers' ability to implement our solutions in those countries. Changes in our solutions or changes in export and import regulations may create delays in the introduction of our solutions into international markets, prevent our customers with international operations from deploying our solutions globally or, in some cases, prevent the export or import of our solutions to certain countries, governments or ~~person~~ **persons** ~~' s~~ altogether. Any change in export or import regulations, economic sanctions or related legislation, shift in the enforcement or scope of existing regulations, or change in the countries, governments, persons or technologies targeted by such regulations, could result in decreased use of our solutions by, or in our decreased ability to export or sell our solutions to, existing or potential customers with international operations. Any decreased use of our solutions or limitation on our ability to export or sell our solutions would likely adversely affect our business, financial condition, and operating results. Changes to government regulations may reduce the size of the market for our solutions, harm demand for our solutions, force us to update our solutions or implement changes in our services and increase our costs of doing business. Any changes in government regulations that impact our customers or their end customers could have a harmful effect on our business by reducing the size of our addressable market, forcing us to update the solutions we offer or otherwise increasing our costs. For example, with respect to our life sciences customers, regulatory developments related to government- sponsored entitlement programs or U. S. Food and Drug Administration or foreign equivalent regulation of, or denial, withholding or withdrawal of approval of, our customers' products could lead to a lack of demand for our solutions. Other changes in government regulations, in areas such as privacy, export compliance or anti- bribery statutes, such as the U. S. Foreign Corrupt Practices Act, could require us to implement changes in our solutions, services or operations that increase our cost of doing business and thereby adversely affecting our financial performance. Any new implementation of or changes made to laws, regulations or other industry standards affecting our business in any of the geographic regions in which we operate may require significant development efforts or have an unfavorable effect on our business operations. Various U. S. laws and regulations, such as the Bank Secrecy Act of 1970 (the " Bank Secrecy Act ") and many states jurisdictions impose license and registration obligations on those companies engaged in the business of money transmission, with varying definitions of what constitutes money transmission. Evaluation of our compliance efforts, as well as the questions of whether and to what extent our products and services require licensure is subject to regulatory interpretation and could change over time. Such changes could subject us to investigations and resulting liability, including governmental fines, restrictions on our business, or other sanctions, and we could be forced to cease conducting certain aspects of our business with customers of certain jurisdictions, or be required to obtain additional licenses or regulatory approvals. There can be no assurance that we will be able to obtain any such licenses, and, even if we were able to do so, there could be substantial costs and potential product changes involved in maintaining such licenses, which could have a material and adverse effect on our business. In addition, as our business and products continue to develop and expand, we may become subject to additional rules, regulations, and industry standards. We may not always be able to accurately predict the scope or applicability of certain regulations to our business, particularly as we expand into new areas of operations, which could have a significant negative effect on our existing business and our ability to pursue future plans. We may be the target of illegitimate or other improper transaction settlement despite compliance systems. We are legally or contractually required to comply with the anti- money laundering laws and regulations, such as, the Bank Secrecy Act, and other compliance standards related to providing managed payments and processing services for our customers. In some contexts, we are directly subject to these requirements; in other contexts, we have contractually agreed to assist our financial institutions with their obligation to comply with compliance requirements that apply to them. We have developed procedures and controls that are designed to monitor and address legal and regulatory requirements and developments and that are applicable to our payments sector. However, when our products and services are used to process illegitimate transactions, or if our products and services are subject to internal data and transaction reporting errors, and invoice or other payments settlements are improperly processed, we may suffer losses and liability. These types of illegitimate transactions or improper settlements can also expose us to governmental and regulatory sanctions and potentially prevent us from satisfying our contractual obligations to our customers or other third parties, which may cause us to be in breach of our obligations. Risks Related to Our Technology and Security Our solutions must interoperate with our customers' existing IT infrastructure, which often have different specifications, complex configuration, utilize multiple protocol standards, deploy products from multiple vendors and contain multiple generations of products that have been added over time. As a result, when problems occur in a network, it may be difficult to identify the sources of these problems. If we find errors in the existing products or defects in the hardware used in our customers' IT infrastructure or problematic network configurations or settings, we may have to modify our solutions or platform so that our solutions will interoperate with our customers' IT infrastructure. Any delays in identifying the sources of problems or in providing necessary modifications to our solutions could have a negative impact on our reputation and our customers' satisfaction with our solutions, and our ability to sell solutions could be adversely affected. Our solutions are used by our customers to manage and store personally identifiable information, proprietary information and sensitive or confidential data relating to their business. Although we maintain security features in our solutions, our security measures may not detect or prevent hacker interceptions, break- ins, security breaches, the introduction of viruses or malicious code, such as " ransomware, " **attacks utilizing artificial intelligence and machine learning,** and other disruptions that may jeopardize the security of information stored in and transmitted by our solutions. Cyber- attacks and other malicious Internet- based activity continue to increase generally and may be directed at either the solution used by our customers or our corporate information technology software and infrastructure. Because techniques used to obtain unauthorized access, exploit vulnerabilities or sabotage systems change frequently and generally are not identified until they are launched against a target, we may be unable to anticipate these techniques, patch vulnerabilities, or implement adequate preventative measures. Certain of our customers may have a greater sensitivity to security defects or breaches in our software than to defects in other, less critical, software solutions. Any actual or perceived security breach or theft of the business- critical data of one or more of our customers, regardless of whether the breach is attributable to the failure of our software or solutions, may adversely affect the market' s perception of our solutions. There can be no assurance that limitation of liability, indemnification or other protective provisions in our contracts would be applicable, enforceable or adequate in connection with a security breach, or would otherwise protect us from any such liabilities or damages with respect to any particular claim. We also cannot be sure that our existing general liability insurance coverage and coverage for errors or omissions will continue to be available on acceptable terms or will be available in sufficient amounts to cover one or more large claims, or that the insurer will not deny coverage as to any future claim. One or more large claims may be asserted against us that exceed our available insurance coverage, or changes in our insurance policies may occur, including premium increases or the imposition of large deductible or co- insurance requirements. Furthermore, a party that is able to circumvent our security measures or exploit any vulnerabilities in our solutions could misappropriate our or our customers' proprietary or confidential information, cause interruption in their operations, damage or misuse their computer systems, misuse any information that they misappropriate, cause early termination of our contracts, subject us to notification and indemnity obligations, litigation, and regulatory investigation or governmental sanctions, cause us to lose existing customers, and harm our ability to attract future customers. Any such breach could cause harm to our reputation, business, financial condition and results of operations, and we may incur significant liability, and as a result our business and financial position may be harmed. We rely on a small number of third- party service providers to host and deliver our cloud- based solutions, and any interruptions or delays in services from these third parties could impair the delivery of our cloud- based solutions and harm our business. We currently operate our cloud- based solutions primarily through third- party data centers **,** and cloud service providers. We do not control the operation of these facilities. These facilities and third- parties are vulnerable to damage or interruption from natural disasters, fires, power loss, telecommunications failures, global epidemics, pandemics, or contagious diseases, **geopolitical turmoil and similar events,** such as ~~COVID- 19, and similar events, such as~~ the **wars in** ~~current invasion of~~ Ukraine ~~by Russia~~ **and Israel** . They are also subject to break- ins, computer viruses, sabotage, intentional acts of vandalism and other misconduct. The occurrence of a natural disaster or an act of terrorism, a decision to close the facilities without adequate notice or other unanticipated problems could result in lengthy interruptions, which would have a serious adverse impact on our business. Additionally, our data center agreements are of limited duration, subject to early termination rights in certain circumstances, may include inadequate indemnification and liability provisions, and the providers of our data centers have no obligation to renew their agreements with us on commercially reasonable terms, or at all. If we continue to add data centers and add capacity in our third- party existing data centers and cloud service providers, we may transfer data to other locations. Despite precautions taken during this process, any unsuccessful data transfers may impair the delivery of our service. Interruptions in our service, data loss or corruption may subject us to liability to our customers, cause customers to terminate their agreements and adversely affect our renewal rates and our ability to attract new customers. Data transfers may also subject us to regional privacy and data protection laws that apply to the transmission of customer data across international borders. We also depend on access to the Internet through third- party bandwidth providers to operate our cloud- based solution. If we lose the services of one or more of our bandwidth providers, or if these providers experience outages, for any reason, we could experience disruption in delivering our cloud- based solutions or we could be required to retain the services of a replacement bandwidth provider. Any Internet outages or delays could adversely affect our ability to provide our solutions to our customers. Our data center operations also rely heavily on the availability of electricity, which also comes from third- party providers. If we or the third- party data center facilities or cloud service provider facilities that we use to deliver our services were to experience a major power outage or if the cost of electricity were to increase significantly, our operations and financial results could be harmed. If we or our third- party data centers **facilities** or cloud service provider facilities were to experience a major power outage, we or they would have to rely on back- up generators, which might not work properly or might not provide an adequate supply during a major power outage. Such a power outage could result in a significant disruption of our business. Additionally, defects in our systems or those of third parties, errors or delays in the processing of payment transactions, telecommunications failures, or other difficulties (including those related to system relocation) could result in loss of revenues, loss of customers, loss of data, harm to our business or reputation, exposure to fraud losses or other liabilities, negative publicity, additional operating and development costs, fines and other sanctions imposed by counterparties, and / or diversion of technical and other resources. Our use of open source and third- party technology could impose limitations on our ability to commercialize our solutions. We use open source software in our solutions and in our services engagements on behalf of customers. As we increasingly handle configured implementation of our solutions on behalf of customers, we use additional open source software that we obtain from all over the world. Although we try to monitor our use of open source software, the terms of many open source licenses have not been interpreted by U. S. courts, and there is a risk that such licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to market our solutions. In such event, we could be required to seek licenses from third parties in order to continue offering our solutions, to re- engineer our technology or to discontinue offering our solutions in the event re- engineering cannot be accomplished on a timely basis, any of which could cause us to breach contracts, harm our reputation, result in customer losses or claims, increase our costs or otherwise adversely affect our business, operating results and financial condition. Some open source licenses contain requirements that we make available source code for modifications or derivative works we create based upon the type of open source software we use. If we combine our proprietary software with open source software in a certain manner, we could, under certain open source licenses, be required to release the source code of our proprietary software to the public. This would allow our competitors to create similar solutions with lower development effort and time and ultimately could result in a loss of product sales for us. **We use artificial intelligence and machine learning in our business, and challenges with properly managing its use could result in reputational harm, competitive harm, and legal liability, and adversely affect our results of operations. We currently incorporate artificial intelligence and machine learning (" AI ") solutions into our intelligence cloud products including our deal intelligence application, and these applications may become important in our operations over time. Our competitors or other third parties may incorporate AI into their products and offerings more quickly or more successfully than us, which could impair our ability to compete effectively and adversely affect our results of operations. Additionally, if the content, analyses, or recommendations that AI applications assist in producing**

are or are alleged to be inaccurate, deficient, or biased, our business, financial condition, and results of operations may be adversely affected. The use of AI applications has resulted in, and may in the future result in, cybersecurity incidents that implicate the sensitive data of customers analyzed within such applications. Any such cybersecurity incidents related to our use of AI applications for analysis of sensitive data could adversely affect our reputation and results of operations. AI also presents emerging ethical issues and if our use of AI becomes controversial, we may experience brand or reputational harm, competitive harm, or legal liability. The rapid evolution of AI, including potential government regulation of AI and it various uses, will require significant resources to develop, test and maintain our intelligence cloud platform, offerings, services, and features to help us implement AI ethically in order to minimize unintended, harmful impact. Risks Related to Our Intellectual Property The success of our business and the ability to compete depend in part upon our ability to protect and enforce our patents, trade secrets, trademarks, copyrights and other intellectual property rights. We primarily rely on patent, copyright, trade secret and trademark laws, trade secret protection and confidentiality or license agreements with our employees, customers, partners and others to protect our intellectual property rights. However, the steps we take to protect our intellectual property rights may be inadequate or we may be unable to secure intellectual property protection for all of our solutions. Any of our copyrights, trademarks or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation. Competitors may independently develop technologies or solutions that are substantially equivalent or superior to our solutions or that inappropriately incorporate our proprietary technology into their solutions. Competitors may hire our former employees who may misappropriate our proprietary technology or misuse our confidential information. Although we rely in part upon confidentiality agreements with our employees, consultants and other third parties to protect our trade secrets and other confidential information, those agreements may not effectively prevent disclosure of trade secrets and other confidential information and may not provide an adequate remedy in the event of misappropriation of trade secrets or unauthorized disclosure of confidential information. In addition, others may independently discover our trade secrets and confidential information, and in such cases we could not assert any trade secret rights against such parties. In order to protect our intellectual property rights, we may be required to spend significant resources to monitor and protect these rights. Litigation to protect and enforce our intellectual property rights could be costly, time- consuming and distracting to management and could result in the impairment or loss of portions of our intellectual property. Furthermore, our efforts to enforce our intellectual property rights may be met with defenses, counterclaims and countersuits attacking the validity and enforceability of our intellectual property rights. Any litigation, whether or not it is resolved in our favor, could result in significant expense to us and divert the efforts of our technical and management personnel, which may adversely affect our business, operating results and financial condition. Certain jurisdictions may not provide adequate legal infrastructure for effective protection of our intellectual property rights. Changing legal interpretations of liability for unauthorized use of our solutions or lessened sensitivity by corporate, government or institutional users to refraining from intellectual property piracy or other infringements of intellectual property could also harm our business. It is possible that innovations for which we seek patent protection may not be protectable. Additionally, the process of obtaining patent protection is expensive and time consuming, and we may not be able to prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. Given the cost, effort, risks and downside of obtaining patent protection, including the requirement to ultimately disclose the invention to the public, we may not choose to seek patent protection for certain innovations. However, such patent protection could later prove to be important to our business. Even if issued, there can be no assurance that any patents will have the coverage originally sought or adequately protect our intellectual property, as the legal standards relating to the validity, enforceability and scope of protection of patent and other intellectual property rights are uncertain. Any patents that are issued may be invalidated or otherwise limited, or may lapse or may be abandoned, enabling other companies to better develop products that compete with our solutions, which could adversely affect our competitive business position, business prospects and financial condition. We cannot assure you that the measures we have taken to protect our intellectual property will adequately protect us, and any failure to protect our intellectual property could harm our business. We may not be able to enforce our intellectual property rights throughout the world, which could adversely impact our international operations and business. The laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Many companies have encountered significant problems in protecting and enforcing intellectual property rights in certain foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents and other intellectual property protection. This could make it difficult for us to stop the infringement or misappropriation of our intellectual property rights. Proceedings to enforce our proprietary rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business. Accordingly, our efforts to enforce our intellectual property rights in such 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 license technology from third parties, and our inability to maintain those licenses could harm our business. Certain third- party technology that we use may be difficult to replace or could cause errors or failures of our service. We incorporate technology that we purchase or license from third parties, including hardware and software, into our solutions. We cannot be certain that this technology will continue to be available on commercially reasonable terms, or at all. We cannot be certain that our licensors are not infringing the intellectual property rights of third parties or that our licensors have sufficient rights to the licensed intellectual property in all jurisdictions in which we may sell our solutions. Some of our agreements with our licensors may be terminated for convenience by them. If we are unable to continue to license any of this technology because of intellectual property infringement claims brought by third parties against our licensors or against us, or if we are unable to continue our license agreements or enter into new licenses on commercially reasonable terms, our ability to develop and sell solutions containing that technology would be severely limited and our business could be harmed. Additionally, if we are unable to license or obtain the necessary technology from third parties, we may be forced to acquire or develop alternative technology of lower quality or performance standards. This would limit and delay our ability to offer new or competitive solutions and increase our costs of production. In addition, errors or defects in third- party hardware or software used in our cloud- based solutions could result in errors or a failure of our cloud- based solutions, which could harm our business. We may be sued by third parties for alleged infringement of their proprietary rights which could result in significant costs and harm our business. There is considerable patent and other intellectual property development activity in our industry. Our success depends upon us not infringing upon the intellectual property rights of others. Companies in the software and technology industries, including some of our current and potential competitors, own large numbers of patents, copyrights, trademarks and trade secrets and frequently enter into litigation based on allegations of infringement, misappropriation or other violations of intellectual property rights. In addition, many of these companies have the capability to dedicate substantially greater resources to enforce their intellectual property rights and to defend claims that may be brought against them. The litigation may involve patent holding companies or other adverse patent owners who have no relevant product revenue and against whom our potential patents may provide little or no deterrence. We have received, and may in the future receive, notices that claim we have infringed, misappropriated or otherwise violated other parties' intellectual property rights. To the extent we gain greater visibility, we face a higher risk of being the subject of intellectual property infringement claims, which is not uncommon with respect to software technologies in general and information security technology in particular. There may be third- party intellectual property rights, including issued or pending patents that cover significant aspects of our technologies or business methods. Any intellectual property claims, with or without merit, could be very time consuming, could be expensive to settle or litigate and could divert our management' s attention and other resources. These claims could also subject us to significant liability for damages, potentially including treble damages if we are found to have willfully infringed patents or copyrights. These claims could also result in our having to stop using technology found to be in violation of a third party' s rights. We might be required to seek a license for the intellectual property, which may not be available on reasonable terms or at all. Even if a license were available, we could be required to pay significant royalties, which would increase our operating expenses. As a result, we may be required to develop alternative non- infringing technology, which could require significant effort and expense. If we cannot license or develop technology for any infringing aspect of our business, we would be forced to limit or stop sales of one or more of our solutions or features of our solutions and may be unable to compete effectively. Any of these results would harm our business, operating results and financial condition. In addition, our agreements with customers and partners include indemnification provisions under which we agree to indemnify them for losses suffered or incurred as a result of claims of intellectual property infringement and, in some cases, for damages caused by us to property or persons. Large indemnity payments could harm our business, operating results and financial condition. Risks Related to the Ownership of Our Common Stock The market price of our common stock could be subject to wide fluctuations in response to, among other things, the factors described in this " Risk Factors " section or otherwise and other factors beyond our control, such as fluctuations in the volume of shares traded, the valuations of companies perceived by investors to be comparable to us; stockholder activism ~~;~~ and the general macroeconomic and geopolitical environment. Furthermore, the stock markets have experienced price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies, particularly during this time of uncertainty as the world continues to respond **to geopolitical turmoil, such as** the ~~war~~ **wars** in Ukraine **and Israel** , rising inflation **, disruption in supply chains, recent instability in the global banking system** and increasing interest rates ~~, and the COVID- 19 pandemic~~ . These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market fluctuations, as well as general economic, systemic, political and market conditions, such as recessions, or impacts related to global epidemics, pandemics, or contagious diseases ~~, such as COVID- 19~~ , future interest rate changes or international currency fluctuations, may negatively affect the market price of our common stock. Many companies that have experienced volatility in the market price of their stock have become subject to securities class action litigation. We have been in the past, and may be in the future, the target of this type of litigation. Securities litigation against us could result in substantial costs and divert our management' s attention, which could harm our business. The exclusive forum provision in our restated certificate of incorporation may limit a stockholder' s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits with respect to such claims. Our restated certificate of incorporation, to the fullest extent permitted by law, provides that the Court of Chancery of the State of Delaware is the exclusive forum for: any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, or the DGCL, our restated certificate of incorporation, or our restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act. It could apply, however, to a suit that falls within one or more of the categories enumerated in the exclusive forum provision and asserts claims under the Securities Act, inasmuch as Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rule and regulations thereunder. There is uncertainty as to whether a court would enforce such provision with respect to claims under the Securities Act, and our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder. This choice of forum provision may limit a stockholder' s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provisions contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations and financial condition. In addition, Section 203 of the DGCL may discourage, delay or prevent a change in control of our company. Section 203 imposes certain restrictions on mergers, business combinations and other transactions between us and holders of 15 % or more of our common stock. Section 22 of the Securities Act of 1933, as amended (the Securities Act), creates concurrent jurisdiction for federal and state courts over all claims brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. In May 2020, we amended and restated our restated bylaws to provide that the federal district courts of the United States of America will, to the fullest extent permitted by law, be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, or a Federal Forum Provision. Our decision to adopt a Federal Forum Provision followed a decision by the Supreme Court of the State of Delaware holding that such provisions are facially valid under Delaware law. While there can be no assurance that federal or state courts will follow the holding of the Delaware Supreme Court or determine that the Federal Forum Provision should be enforced in a particular case, application of the Federal Forum Provision means that suits brought by our stockholders to enforce any duty or liability created by the Securities Act must be brought in federal court and cannot be brought in state court. Section 27 of the Exchange Act creates exclusive federal jurisdiction over all claims brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder. In addition, neither the exclusive forum provision nor the Federal Forum Provision applies to suits brought to enforce any duty or liability created by the Exchange Act. Accordingly, actions by our stockholders to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder must be brought in federal court. Our stockholders will not be deemed to have waived our compliance with the federal securities laws and the regulations promulgated thereunder. Any person or entity purchasing or otherwise acquiring or holding any interest in any of our securities shall be deemed to have notice of and consented to our exclusive forum provisions, including the Federal Forum Provision. These provisions may limit a stockholders' ability to bring a claim in a judicial forum of their choosing for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers, and other employees. We do not anticipate paying any dividends on our common stock. We do not anticipate paying any cash dividends on our common stock in the foreseeable future. If we do not pay cash dividends, you would receive a return on your investment in our common stock only if the market price of our common stock is greater at the time you sell your shares than the market price at the time you bought your shares. Risks Related to Ownership of Our Convertible Senior Notes Our outstanding notes are effectively subordinated to our secured debt and any liabilities of our subsidiaries. Our outstanding notes will rank senior in right of payment to all of our indebtedness that is expressly subordinated in right of payment to the notes; equal in right of payment with all of our liabilities that are not so subordinated; effectively junior to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure debt ranking senior or equal in right of payment to the notes will be available to pay obligations on the notes only after the secured debt has been repaid in full from these assets. There may not be sufficient assets remaining to pay amounts due on any or all of the notes then outstanding. The indenture governing the notes will not prohibit us from incurring additional senior debt or secured debt, nor will it prohibit any of our subsidiaries from incurring additional liabilities. Our notes are our obligations only, and to the extent our operations will be conducted through, and a substantial portion of our consolidated assets will be held by, our subsidiaries, we may rely on distributions from such subsidiaries to service our debt. Our notes are our obligations exclusively. To the extent our operations will be conducted through, and a substantial portion of our consolidated assets will be held by, our subsidiaries, our ability to service the notes will depend on the results of operations of our subsidiaries and upon the ability of such subsidiaries to provide us with cash, whether in the form of dividends, loans or otherwise, to pay amounts due on our obligations, including the notes. Our present and future subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to make payments on the notes or to make any funds available for that purpose. In addition, dividends, loans or other distributions to us from such subsidiaries may be subject to statutory, contractual and other restrictions and are subject to other business considerations. As of September 30, ~~2022~~ **2023** , **the outstanding** ~~we had an~~ aggregate principal amount of **the issuance of the 2. 625 % convertible senior notes due in 2025 (the " 2025 Notes ") and the issuance of the 1. 875 % convertible senior notes due in 2028 (the " 2028 Notes ") were** $ ~~172~~ **34** . 5 million ~~of notes outstanding~~ **, and $ 253 million, respectively** . We may also incur additional indebtedness in the future to meet future financing needs. Our current indebtedness and any future ~~incurrence~~ **occurrence** of additional significant indebtedness could have adverse consequences, including the following: • reducing the availability of our cash flow for our operations, capital expenditures, future business opportunities and other purposes; • limiting our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate; • increasing our vulnerability to general adverse economic and industry conditions; and • lengthening our sales process as customers evaluate our financial viability. Our ability to generate cash to repay our indebtedness is subject to the performance of our business, as well as general economic, financial, competitive and other factors that are beyond our control. If our business does not generate sufficient cash flow from operating activities or if future borrowings are not available to us in amounts sufficient to enable us to fund our liquidity needs, our operating results, financial condition and ability to expand our business may be adversely affected. In addition, if we are unable to generate such cash flow or obtain sufficient borrowings, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations. Recent and future regulatory actions and other events may adversely affect the trading price and liquidity of our notes. We expect that many investors in our notes will employ, or seek to employ, a convertible arbitrage strategy with respect to the notes. Investors would typically implement such a strategy by selling short the common stock underlying the notes and dynamically adjusting their short position while continuing to hold the notes. Investors may also implement this type of strategy by entering into swaps on our common stock in lieu of or in addition to short selling the common stock. The SEC and other regulatory and self- regulatory authorities have implemented various rules and taken certain actions, and may in the future adopt additional rules and take other actions, that may impact those engaging in short selling activity involving equity securities (including our common stock). Such rules and actions include Rule 201 of SEC Regulation SHO, the adoption by the Financial Industry Regulatory Authority, Inc. and the national securities exchanges of a ' ' Limit Up- Limit Down'' program, the imposition of market- wide circuit breakers that halt trading of securities for certain periods following specific market declines, and the implementation of certain regulatory reforms required by the Dodd- Frank Wall Street Reform and Consumer Protection Act of 2010. Any governmental or regulatory action that restricts the ability of investors in, or potential purchasers of, the notes to effect short sales of our common stock, borrow our common stock or enter into swaps on our common stock could adversely affect the trading price and the liquidity of our notes. In addition, the liquidity of the market for our common stock may decline, which could reduce the number of shares available for lending in connection with short sale transactions and the number of counterparties willing to enter into an equity swap on our shares of common stock with a note investor. If investors in our notes seeking to employ a convertible note arbitrage strategy are unable to borrow or enter into equity swaps on our shares of common stock on commercially reasonable terms, then the trading of, and the liquidity of the market for, our notes may significantly decline. Volatility in the market price and trading volume of our common stock could adversely impact the trading price of our notes. We expect that the trading price of the notes will be significantly affected by the market price of our common stock. The stock market in recent years has experienced significant price and volume fluctuations that have often been unrelated to the operating performance of companies. The market price of our common stock could fluctuate significantly for many reasons, including in response to the risks described in this section and this report, many of which are beyond our control, such as reports by industry analysts, investor perceptions or negative announcements by our customers, competitors or suppliers regarding their own performance, as well as industry conditions and general financial, economic and political instability. A decrease in the market price of our common stock would likely adversely impact the trading price of our notes. The market price of our common stock could also be affected by possible sales of our common stock by investors who view the notes as a more attractive means of equity participation in us and by hedging or arbitrage trading activity that we expect to develop involving our common stock. This trading activity could, in turn, affect the trading price of the notes. In addition, the condition of the financial markets and changes in prevailing interest rates can have an adverse effect on the trading price of our notes. For example, prevailing interest rates have fluctuated in the past, and are currently increasing. This increase in prevailing interest rates could adversely affect the trading price of our notes. We and our subsidiaries may incur substantially more debt or take other actions which would intensify the risks discussed above. We and our subsidiaries may be able to incur substantial additional debt in the future, subject to the restrictions contained in our debt instruments, some of which may be secured debt. We are not restricted under the terms of the ~~indenture~~ **indentures** governing our notes from incurring additional debt, securing existing or future debt, recapitalizing our debt or taking a number of other actions that are not limited by the terms of the ~~indenture~~ **indentures** governing the notes that could have the effect of diminishing our ability to make payments on our notes when due. We may not have the ability to raise the funds necessary to settle conversions of our notes in cash, to repurchase our notes for cash upon a fundamental change or to pay the redemption price for any notes we redeem, and our future debt may contain limitations on our ability to pay cash upon conversion or repurchase of the notes. Holders of our notes have the right to require us to repurchase all or a portion of their notes upon the occurrence of a fundamental change (as defined in the ~~indenture~~ **indentures governing the notes**) at a fundamental change repurchase price equal to 100 % of the principal amount of the notes to be repurchased, plus accrued and unpaid interest, if any. In addition, upon conversion of the notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional shares), we will be required to make cash payments in respect of the notes being converted. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of notes surrendered therefore or notes that are being redeemed or converted. In addition, our ability to repurchase the notes or to pay cash upon redemptions or conversions of the notes may be limited by law, by regulatory authority, or by other agreements governing our future indebtedness. Our failure to repurchase notes at a time when the repurchase is required by the **applicable** indenture or to pay any cash payable on future conversions of the notes as required by the **applicable** indenture would constitute a default under the **applicable** indenture. A default under **either of** the ~~indenture~~ **indentures** or the occurrence of a fundamental change itself could also lead to a default under agreements governing our existing and future indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the notes or make cash payments upon conversions thereof. The conditional conversion feature of our notes, if triggered, may adversely affect our financial condition and operating results. In the event the conditional conversion feature of our notes is triggered, holders of **the applicable series of** notes will be entitled to convert the notes **of the applicable series** at any time during specified periods at their option. If one or more holders elect to convert their notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional shares), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the notes as a current rather than long- term liability, which would result in a material reduction of our net working capital. The accounting method for convertible debt securities that may be settled in cash, such as our outstanding notes, could have a material effect on our reported financial results. Under Accounting Standards Codification 470- 20, Debt with Conversion and Other Options (' ' ASC 470- 20''), an entity must separately account for the liability and equity components of the convertible debt instruments (such as our notes) that may be settled entirely or partially in cash upon conversion in a manner that reflects the issuer' s economic interest cost. The effect of ASC 470- 20 on the accounting for the notes is that the equity component is required to be included in the additional paid- in capital section of stockholders' equity on our consolidated balance sheet at the issuance date, and the value of the equity component is treated as debt discount for purposes of accounting for the debt component of the notes. As a result, we are required to record a greater amount of non- cash interest expense in current periods presented as a result of the accretion of the discounted carrying value of the notes to their face amount over the respective terms of the notes. We report larger net losses (or lower net income) in our financial results because ASC 470- 20 requires interest to include both the current period' s accretion of the debt discount and the instrument' s coupon interest rate, which could adversely affect our future financial results, the trading price of our common stock or the trading price of the notes. In addition, under certain circumstances, the treasury stock method for calculating diluted earnings per share is permitted for convertible debt instruments (such as the notes) that may be settled entirely or partly in cash. As a result, for purposes of calculating diluted earnings per share, we will include, under certain circumstances, the shares underlying the notes only to the extent that the conversion value of the notes exceeds the principal amount; provided that we will not use the treasury stock method if the effect on diluted earnings per share would be **an** anti- dilutive. In August 2020, the FASB issued ASU 2020- 06, Debt — Debt with Conversion and Other Options (Subtopic 470- 20) and Derivatives and Hedging — Contracts in Entity' s Own Equity (Subtopic 815- 40), Accounting for Convertible Instruments and Contracts in an Entity' s Own Equity, which eliminates the beneficial conversion and cash conversion accounting models for convertible instruments. **The Company adopted** ~~This~~ **this ASU** ~~would reduce non-~~ - **on October 1, 2022 on a modified retrospective basis. Among other changes, ASU 2020** - **06 removes from U. S. GAAP the liability and equity separation model for convertible instruments with a** cash **conversion feature. As a result, the Company no longer separately presents in equity an embedded conversion feature for such debt. Similarly, the embedded conversion feature is no longer amortized into income as** interest expense **over** ~~, and thereby decreasing net loss (or increasing net income). Additionally,~~ the **life of the** ~~treasury stock method for calculating earnings per share will no longer be allowed for convertible debt instruments~~ - **instrument** ~~whose principal amount may be settled using shares. Rather, the if- converted method will be required. Application of the ' ' if- converted' ' method may reduce our reported diluted earnings per share. We cannot be sure whether other changes may be made to the current accounting standards related to the notes, or otherwise, that could have an adverse impact on our financial statements~~. Future sales of our common stock or equity- linked securities in the public market could lower the market price for our common stock and adversely impact the trading price of the notes. In the future, we may sell additional shares of our common stock or equity- linked securities to raise capital. In addition, a substantial number of shares of our common stock are reserved for issuance upon the exercise of stock options, settlement of other equity incentive awards, and upon conversion of the notes. The ~~indenture~~ **indentures** for our notes does not restrict our ability to issue additional common stock or equity- linked securities in the future. We cannot predict the size of future issuances or the effect, if any, that they may have on the market price for our common stock. The issuance and sale of substantial amounts of common stock or equity- linked securities, or the perception that such issuances and sales may occur, could adversely affect the trading price of our notes and the market price of our common stock and impair our ability to raise capital through the sale of additional common stock or equity- linked securities. Holders of our notes are not entitled to any rights with respect to our common stock, but they are subject to all changes made with respect to them to the extent our conversion obligation includes shares of our common stock. Holders of our notes are not entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock) prior to the conversion date relating to such notes (if we have elected to settle the relevant conversion by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional shares)) or the last trading day of the relevant observation period (if we elect to pay and deliver, as the case may be, a combination of cash and shares of our common stock in respect of the relevant conversion), but holders of notes will be subject to all changes affecting our common stock. For example, if an amendment is proposed to our certificate of incorporation or bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the conversion date related to a holder' s conversion of its notes (if we have elected to settle the relevant conversion by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional shares)) or the last trading day of the relevant observation period (if we elect to pay and deliver, as the case may be, a combination of cash and shares of our common stock in respect of the relevant conversion), such holder will not be entitled to vote on the amendment, although such holder will nevertheless be subject to any changes affecting our common stock. The conditional conversion feature of the notes could result in holders of our notes receiving less than the value of our common stock into which the notes would otherwise be convertible. Prior to the close of business on the business day immediately preceding March 1, 2025, **with respect to the 2025 Notes and, December 15, 2027, with respect to the 2028 Notes** the holders of ~~our~~ **the applicable series of** notes may convert their notes only if specified conditions are met. If the specific conditions for conversion are not met, **the** ~~our note holders~~ **noteholders** will not be able to convert their notes, and they may not be able to receive the value of the cash, common stock or a combination of cash and common stock, as applicable, into which the notes would otherwise be convertible. Upon conversion of our notes, our note holders may receive less valuable consideration than expected because the value of our common stock may decline after such exercise of conversion rights but before we settle our conversion obligation. Under the **Convertible Senior** ~~notes~~ **Notes** , a converting holder will be exposed to fluctuations in the value of our common stock during the period from the date such holder surrenders notes for conversion until the date we settle our conversion obligation. Upon conversion of the notes, we have the option to pay or deliver, as the case may be, cash, shares of our common stock, or a combination of cash and shares of our common stock. If we elect to satisfy our conversion obligation in cash or a combination of cash and shares of our common stock, the amount of consideration that our note holders will receive upon conversion of their notes will be determined by reference to the volume- weighted average price of our common stock for each trading day in a 40 consecutive trading day observation period. This period would be (i) subject to clause (ii), if the relevant conversion date occurs prior to March 1, 2025 **, with respect to the 2025 Notes or December 15, 2027, with respect to the 2028 Notes** , the 40 consecutive trading day period beginning on, and including, the second trading day immediately succeeding such conversion date; (ii) if the relevant conversion date occurs on or after the date of our issuance of a notice of redemption calling such note for redemption and on or prior to the business day immediately preceding the relevant redemption date, the 40 consecutive trading days beginning on, and including, the 41st scheduled trading day immediately preceding such redemption date; and (iii) subject to clause (ii), if the relevant conversion date occurs on or after March 1, 2025, **with respect to the 2025 Notes or December 15, 2027, with respect to the 2028 Notes,** the 40 consecutive trading days beginning on, and including, the 41st scheduled trading day immediately preceding the maturity date. Accordingly, if the price of our common stock decreases during this period, the amount and / or value of consideration a note holder will receive will be adversely affected. In addition, if the market price of our common stock at the end of such period is below the average volume- weighted average price of our common stock during such period, the value of any shares of our common stock that our note holders will receive in satisfaction of our conversion obligation will be less than the value used to determine the number of shares that they will receive. If we elect to satisfy our conversion obligation solely in shares of our common stock upon conversion of the notes, we will be required to deliver the shares of our common stock, together with cash for any fractional shares, on the second business day following the relevant conversion date. Accordingly, if the price of our common stock decreases during this period, the value of the shares that note holders receive will be adversely affected and would be less than the conversion value of the notes on the conversion date. Our notes are not protected by restrictive covenants. The ~~indenture~~ **indentures** governing the notes ~~does~~ **do** not contain any financial or operating covenants or restrictions on the payments of dividends, the incurrence of indebtedness or the issuance or repurchase of securities by us or any of our subsidiaries. The ~~indenture~~ **indentures** ~~does~~ **do** not contain any covenants or other provisions to afford protection to holders of the notes in the event of a fundamental change or other corporate transaction involving us except to the extent described in the **applicable** indenture governing the notes. The increase in the conversion rate for notes converted in connection with a make- whole fundamental change or a notice of redemption may not adequately compensate note holders for any lost value of their notes as a result of such transaction or redemption. If a make- whole fundamental change (as defined in the **applicable** indenture **governing the notes**) occurs prior to the maturity date or if we deliver a notice of redemption, we will, under certain circumstances, increase the conversion rate by a number of additional shares of our common stock for notes converted in connection with such make- whole fundamental change or notice of redemption, as the case may be. The number of additional shares, if any, by which the conversion rate will be increased will be determined based on the date on which the make- whole fundamental change occurs or becomes effective or the date of the notice of redemption, as the case may be, and the price paid (or deemed to be paid) per share of our common stock in the make- whole fundamental change or determined with respect to the notice of redemption, as the case may be. Although the increase in the conversion rate is designed to compensate note holders for the option value that their notes lose as result of a make- whole fundamental change or a redemption, as the case may be, the value provided by the increase in the conversion rate is only an approximation of the lost option value and may not adequately compensate note holders for any lost value of their notes as a result of such transaction or redemption, as the case may be. In addition, if the ‘ ‘ stock price’’ (as defined in the **applicable** indenture governing the notes) is greater than **(i)** $ 325. 00 per share or less than $ 26. 14 per share (in each case, subject to adjustment) **, with respect to the 2025 Notes or (ii) $ 450 per share or less than $ 32. 48 per share (in each case, subject to adjustment) with respect to the 2028 Notes** , no additional shares will be added to the conversion rate. Moreover, in no event will the conversion rate per $ 1, 000 principal amount of notes as a result of this adjustment exceed **(i)** 38. 2555 shares of common stock **, with respect to the 2025 Notes or (ii) 30. 7881 shares of common stock, with respect to the 2028 Notes** , subject to adjustment. Our obligation to increase the conversion rate for notes converted in connection with a make- whole fundamental change or notice of redemption could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies. Upon any redemption of the **2025** ~~notes~~ **Notes** on or after June 6, 2023 **or 2028 Notes on or after March 20, 2026** or any conversion of the notes in connection with a notice of redemption, the cash comprising the redemption price, in the case of a redemption, or the applicable conversion rate, in the case of a conversion in connection with a notice of redemption, as applicable, may not fully compensate note holders for future interest payments or lost time value of their notes and may adversely affect their return on the notes. On a redemption date occurring on or after June 6, 2023 **, with respect to the 2025 Notes or March 20, 2026, with respect to the 2028 Notes** and on or before the 41st scheduled trading day immediately before the maturity date, we may redeem for cash all or any portion of the **applicable series of** notes, at our option, if the last reported sale price of our common stock has been at least 130 % of the conversion price **with respect to such series of notes** then in effect for at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the date on which we provide notice of redemption, during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which we provide notice of redemption at a redemption price equal to 100 % of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If we call any or all of ~~the~~ **a series of** notes for redemption, our note holders may convert their notes **of such series** at any time prior to the close of business on the business day immediately preceding the redemption date. Upon such redemption or conversion, the cash comprising the redemption price, in the case of a redemption, or the applicable conversion rate, in the case of a conversion in connection with a notice of redemption, in either case, may not fully compensate our note holders for any future interest payments that they would have otherwise received or any other lost time value of their notes. In addition, we may choose to redeem some or all of the notes, including at times when prevailing interest rates are relatively low and our note holders may not be able to reinvest the proceeds or conversion consideration they receive from the redemption or conversion prior to the redemption, respectively, of such notes in a comparable security at an effective interest rate as high as the interest rate on the notes being redeemed. The conversion rate of our notes may not be adjusted for all dilutive events. The conversion rate of our notes is subject to adjustment for certain events, including, but not limited to, the issuance of certain stock dividends on our common stock, the issuance of certain rights or warrants, subdivisions, combinations, distributions of capital stock, indebtedness, or assets, cash dividends and certain issuer tender or exchange offers. However, the conversion rate will not be adjusted for other events, such as a third- party tender or exchange offer or an issuance of our common stock for cash, that may adversely affect the trading price of the notes or our common stock. An event that adversely affects the value of the notes may occur, and that event may not result in an adjustment to the conversion rate. Provisions in the ~~indenture~~ **indentures** for the notes may deter or prevent a business combination that may be favorable to our security holders. If a fundamental change occurs prior to the maturity date, holders of our notes will have the right, at their option, to require us to repurchase all or a portion of their notes. In addition, if a make- whole fundamental change occurs prior the maturity date, we will in some cases be required to increase the conversion rate for a holder that elects to convert its notes in connection with such make- whole fundamental change. Furthermore, the ~~indenture~~ **indentures** for the notes prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the notes. These and other provisions in the ~~indenture~~ **indentures** could deter or prevent a third party from acquiring us even when the acquisition may be favorable to our security holders. Some significant restructuring transactions may not constitute a fundamental change, in which case we would not be obligated to offer to repurchase the notes. Upon the occurrence of a fundamental change, our note holders have the right to require us to repurchase their notes. However, the fundamental change provisions will not afford protection to holders of notes in the event of other transactions that could adversely affect the notes. For example, transactions such as leveraged recapitalizations, refinancings, restructurings, or acquisitions initiated by us may not constitute a fundamental change requiring us to repurchase the notes. In the event of any such transaction, the note holders would not have the right to require us to repurchase the notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holders of notes. We have not registered the notes or the common stock issuable upon conversion of the notes, if any, which will limit our note holders' ability to resell them. The offer and sale of the notes and the shares of common stock issuable upon conversion of the notes, if any, have not been registered under the Securities Act or any state securities laws. Unless the notes and the shares of common stock issuable upon conversion of the notes, if any, have been registered, the notes and such shares may not be transferred or resold except in a transaction exempt from or not subject to the registration requirements of the Securities Act and applicable state securities laws. We do not intend to file a registration statement for the resale of the notes and the common stock, if any, into which the notes are convertible. There may not be an active trading market for our notes. We do not intend to apply to list the notes on any securities exchange or to arrange for quotation on any automated dealer quotation system. The liquidity of the trading market in the notes, and the market price quoted for the notes, may be adversely affected by changes in the overall market for this type of security and by changes in our financial performance or prospects or in the prospects for companies in our industry generally. As a result, an active trading market may not be maintained for the notes, and the market price and liquidity of the notes may be adversely affected. In that case note holders may not be able to sell their notes at a particular time or they may not be able to sell their notes at a favorable price. Any adverse rating of the notes may cause their trading price to fall. We do not intend to seek a rating on the notes. However, if a rating service were to rate the notes and if such rating service were to lower its rating on the notes below the rating initially assigned to the notes or otherwise announces its intention to put the notes on credit watch, the trading price of the notes could decline. Note holders may be subject to tax if we make or fail to make certain adjustments to the conversion rate of the notes even though they do not receive a corresponding cash distribution. The conversion rate of the notes is subject to adjustment in certain circumstances, including the payment of cash dividends. If the conversion rate is adjusted as a result of a dividend that is taxable to our common stockholders, such as a cash dividend, note holders will be deemed to have received a distribution subject to U. S. federal income tax, without the receipt of any cash. In addition, a failure to adjust (or to adjust adequately) the conversion rate after an event that increases a note holder' s proportionate interest in us could be treated as a deemed taxable dividend to the holder. If a make- whole fundamental change occurs prior to the maturity date or if we deliver a notice of redemption, we will, under certain circumstances, increase the conversion rate for notes converted in connection with the make- whole fundamental change or notice of redemption, as the case may be. Such increase also may be treated as a distribution subject to U. S. federal income tax as a dividend. It is unclear whether any such deemed dividend would be eligible for the preferential tax treatment generally available for dividends paid by U. S. corporations to certain non- corporate U. S. holders. If a note holder is a non- U. S. holder, any deemed dividend would generally be subject to U. S. federal withholding tax, which may be **offset** ~~set off~~ against subsequent payments on the notes or any shares of our common stock owned by the holder or from any proceeds of any subsequent sale, exchange or other disposition of the notes (including the retirement of a note) or such common stock or other funds or assets of the holder. The Internal Revenue Service has proposed regulations addressing the amount and timing of deemed distributions, obligations of withholding agents and filing and notice obligations of issuers, which if adopted could affect the U. S. federal income tax treatment of beneficial owners of notes deemed to receive such a distribution. We may invest or spend the proceeds of from the sale of our notes in ways with which our security holders may not agree or in ways which may not yield a return. Our management will have considerable discretion in the application of the net proceeds from the sale of our notes, and our security holders will not have the opportunity to assess whether the proceeds are being used appropriately. The net proceeds may be invested with a view towards long- term benefits for our stockholders and this may not increase our operating results or market value. The failure by our management to apply these funds effectively may adversely affect the return on investment. Because the notes will initially be held in book- entry form, holders must rely on DTC' s procedures to receive communications relating to the notes and exercise their rights and remedies. ~~We will~~ **The notes were** initially ~~issue~~ **issued** ~~the notes~~ in the form of one or more global notes registered in the name of Cede & Co., as nominee of DTC. Beneficial interests in global notes will be shown on, and transfers of global notes will be effected only through, the records maintained by DTC. Except in limited circumstances, we will not issue certificated notes. Accordingly, if a note holder owns a beneficial interest in a global note, then it will not be considered an owner or holder of the notes. Instead, DTC or its nominee will be the sole holder of the notes. Unlike persons who have certificated notes registered in their names, owners of beneficial interests in global notes will not have the direct right to act on our solicitations for consents or requests for waivers or other actions from holders. Instead, those beneficial owners will be permitted to act only to the extent that they have received appropriate proxies to do so from DTC or, if applicable, a DTC participant. The applicable procedures for the granting of these proxies may not be sufficient to enable owners of beneficial interests in global notes to vote on any requested actions on a timely basis. In addition, notices and other communications relating to the notes will be sent to DTC. We expect DTC to forward any such communications to DTC participants, which in turn would forward such communications to indirect DTC participants. However, we can make no assurances that note holders will timely receive any such communications. General Risk Factors Our financial results may be adversely affected by changes in accounting principles generally accepted in the United States. U. S. GAAP is subject to interpretation by the Financial Accounting Standards Board (“ FASB ”), the American Institute of Certified Public Accountants, the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. See Note 2 to the Consolidated Financial Statements included in this report regarding the effect of new accounting pronouncements on our financial statements. Any difficulties in implementing these pronouncements could cause us to fail to meet our financial reporting obligations, which could result in regulatory discipline and harm investors’ confidence in us. Further, the implementation of this new guidance or a change in other principles or interpretations could have a significant effect on our financial results and could affect the reporting of transactions completed before the announcement of a change. If we fail to maintain an effective system of internal controls, our ability to produce timely and accurate financial statements or comply with applicable regulations could be impaired. As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934 (Exchange Act), the Sarbanes-Oxley Act and the rules and regulations of the applicable listing exchange. We expect that the requirements of these rules and regulations will continue to increase our legal, accounting and financial compliance costs, make some activities more difficult, time consuming and costly, and place significant strain on our personnel, systems and resources. The Sarbanes- Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. We are continuing to develop and refine our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file with the SEC is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that information required to be disclosed in reports under the Exchange Act is accumulated and communicated to our principal executive and financial officers. Our current controls and any new controls that we develop may become inadequate because of changes in conditions in our ~~business. For example, our recent acquisition of Deloitte & Touche LLP’ s pricing and contracting solutions business may present additional challenges as we integrate their~~ business. Further, weaknesses in our internal controls may be discovered in the future. Any failure to develop or maintain effective controls, any deficiencies found in the technology system we use to support our controls, or any difficulties encountered in their implementation or improvement, could harm our operating results or cause us to fail to meet our reporting obligations and may result in a restatement of our financial statements for prior periods. Any failure to implement and maintain effective internal controls also could adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we are required to include in our periodic reports we file with the SEC under Section 404 of the Sarbanes- Oxley Act. For example, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating. Ineffective disclosure controls and procedures and internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our common stock. In order to maintain and improve the effectiveness of our disclosure controls and procedures and internal control over financial reporting, we have expended, and anticipate that we will continue to expend, significant resources, including accounting- related costs, and provide significant management oversight. Any failure to maintain the adequacy of our internal controls, or consequent inability to produce accurate financial statements on a timely basis, could increase our operating costs and could materially impair our ability to operate our business. In the event that our internal controls are perceived as inadequate or that we are unable to produce timely or accurate financial statements, investors may lose confidence in our operating results and our stock price could decline. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on the New York Stock Exchange. We incur significant costs and devote substantial management time as a result of operating as a public company. As a public company, we incur significant legal, accounting and other expenses. For example, we are required to comply with the requirements of the Sarbanes- Oxley Act of 2002 (“ Sarbanes- Oxley Act ”) and the Dodd Frank Wall Street Reform and Consumer Protection Act, as well as rules and regulations subsequently implemented by the Securities and Exchange Commission (“ SEC ”) and the New York Stock Exchange, including the establishment and maintenance of effective disclosure and financial controls and changes in corporate governance practices. Compliance with these rules and regulations increases our legal and financial compliance costs, makes some activities more difficult, time - consuming or costly and increases demand on our systems and resources, particularly since we are no longer an “ emerging growth company. ” In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting, significant resources and management oversight may be required. As a result, management’ s attention may be diverted from other business concerns, which could adversely affect our business and operating results. If securities analysts do not publish research or reports or if they publish unfavorable or inaccurate research about our business and our stock, the price of our stock and the trading volume could decline. We expect that the trading market for our common stock will be affected by research or reports that industry or financial analysts publish about us or our business. There are many large, well- established companies active in our industry and portions of the markets in which we compete, which may mean that we receive less widespread analyst coverage than our competitors. If one or more of the analysts who covers us downgrades their evaluations of our company or our stock, the price of our stock could decline. If one or more of these analysts cease coverage of our company, our stock may lose visibility in the market, which in turn could cause our stock price to decline. Our business is subject to the risks of earthquakes, fire, power outages, floods and other catastrophic events, and to interruption by manmade problems such as terrorism. Our corporate headquarters and facilities are located near known earthquake fault zones and are vulnerable to significant damage from earthquakes. The corporate headquarters and facilities are also vulnerable to damage or interruption from human error, intentional bad acts, earthquakes, hurricanes, floods, fires, global epidemics, pandemics, or contagious diseases, war, terrorist attacks, power losses, hardware failures, systems failures, telecommunications failures and similar events. The occurrence of a natural disaster or an act of terrorism or vandalism or other misconduct or other unanticipated problems with our facilities could result in lengthy interruptions to our services. If any disaster were to occur, our ability to operate our business at our facilities could be seriously or completely impaired or destroyed. The insurance we maintain may not be adequate to cover our losses resulting from disasters or other business interruptions. We may face risks related to securities litigation that could result in significant legal expenses and settlement or damage awards. We have been in the past and may in the future become subject to claims and litigation alleging violations of the securities laws or other related claims, which could harm our business and require us to incur significant costs. We are generally obliged, to the extent permitted by law, to indemnify our current and former directors and officers who are named as defendants in these types of lawsuits. Regardless of the outcome, litigation may require significant attention from management and could result in significant legal expenses, settlement costs or damage awards that could have a material impact on our financial position, results of operations and cash flows. Our restated certificate of incorporation and restated bylaws and Delaware law could prevent a takeover that stockholders consider favorable and could also reduce the market price of our stock. Our restated certificate of incorporation and restated bylaws contain provisions that could delay or prevent a change in control of us. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions. These provisions include: • providing for a classified board of directors with staggered, three- year terms; • authorizing the board of directors to issue, without stockholder approval, preferred stock with rights senior to those of our common stock; • providing that vacancies on our board of directors be filled by appointment by the board of directors; • prohibiting stockholder action by written consent; • requiring that certain litigation must be brought in Delaware; • limiting the persons who may call special meetings of stockholders; and • requiring advance notification of stockholder nominations and proposals. In addition, we are subject to Section 203 of the Delaware General Corporation Law which may prohibit large stockholders, in particular those owning fifteen percent or more of our outstanding voting stock, from merging or combining with us for a certain period of time without the consent of our board of directors. These and other provisions in our restated certificate of incorporation and our restated bylaws and under the Delaware General Corporation Law could discourage potential takeover attempts, reduce the price that investors might be willing to pay in the future for shares of our common stock and result in the market price of our common stock being lower than it would be without these provisions.