Bazaarvoice Inc
Form DEFM14A
December 26, 2017
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant   Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under §240.14a-12

BAZAARVOICE, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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December 26, 2017

Dear Stockholder:

We cordially invite you to attend a special meeting (the Special Meeting) of stockholders of Bazaarvoice, Inc. (the Company), to be held on January 29, 2018 at 8:30 a.m. CST at 401 Congress Avenue, Suite 2500, Austin, Texas 78701.

At the Special Meeting you will be asked to consider and vote upon a proposal (the Merger Proposal) to adopt the Agreement and Plan of Merger (as it may be amended, supplemented or modified from time to time, including by a First Amendment to Agreement and Plan of Merger on December 14, 2017, the Merger Agreement), dated as of November 26, 2017, by and among the Company, BV Parent, LLC, a Delaware limited liability company (Parent), and BV Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Parent (Merger Sub) and approve the Merger. Pursuant to the Merger Agreement, Merger Sub will merge with and into the Company (the Merger), with the Company surviving as a wholly owned subsidiary of Parent.

Parent and Merger Sub are beneficially owned by Marlin Equity IV, L.P., a Delaware limited partnership, and Marlin Equity V, L.P., a Delaware limited partnership (together with their affiliates, Marlin Equity). Marlin Equity is affiliated with Marlin Equity Partners, a global investment firm focused on providing corporate parents, stockholders and other stakeholders with tailored solutions that meet their business and liquidity needs.

You will also be asked to consider and vote upon a proposal (the Adjournment Proposal) to adjourn the Special Meeting, if necessary and for a minimum period of time reasonable under the circumstances, to ensure that any necessary supplement or amendment to the proxy statement accompanying this notice is provided to Company stockholders a reasonable amount of time in advance of the Special Meeting, or to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve the Merger Proposal.

You also will be asked to consider and vote upon a proposal (the Compensation Proposal) to approve, by non-binding, advisory vote, certain compensation arrangements for the Company s named executive officers in connection with the Merger.

If the Merger is completed, you will be entitled to receive $5.50 in cash, without interest thereon, less any applicable withholding taxes, for each share of our common stock, par value $0.0001 per share (Common Stock), owned by you (unless you have perfected and not withdrawn your appraisal rights with respect to such shares), which represents a premium of approximately 18% to the average closing price of our Common Stock for the 30-calendar day period ending November 24, 2017, the last day of trading prior to the public announcement of the execution of the Merger Agreement.

The Company s Board of Directors has (i) determined that the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement are fair to, and in the best interests of, the Company and its stockholders, (ii) adopted, approved and declared advisable the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement and (iii) resolved to recommend that the Company s stockholders adopt the Merger Agreement and approve the Merger at a stockholders meeting duly called and held for such purpose. Approval of the Merger Proposal requires the affirmative vote of holders of a majority of the outstanding shares of our Common Stock entitled to vote thereon.

The Board of Directors recommends that you VOTE:

FOR approval of the Merger Proposal;

FOR approval of the Adjournment Proposal; and

FOR approval of the Compensation Proposal.

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Your vote is very important. Whether or not you plan to attend the Special Meeting, please complete, date, sign and return, as promptly as possible, the enclosed proxy card in the accompanying prepaid reply envelope, or submit your proxy by telephone or the Internet. If you attend the Special Meeting and vote in person, your vote by ballot will revoke any proxy previously submitted.

If your shares of our Common Stock are held in street name by your bank, brokerage firm or other nominee, your bank, brokerage firm or other nominee will be unable to vote your shares of our Common Stock without instructions from you. You should instruct your bank, brokerage firm or other nominee to vote your shares of our Common Stock in accordance with the procedures provided by your bank, brokerage firm or other nominee. **The failure to instruct your bank, brokerage firm or other nominee to vote your shares of our Common Stock FOR approval of the Merger Proposal will have the same effect as voting against.**

The accompanying proxy statement provides you with detailed information about the Special Meeting, the Merger Agreement and the Merger. A copy of the Merger Agreement is attached as **Annex A** to the proxy statement. We encourage you to read the entire proxy statement and its annexes, including the Merger Agreement, carefully. You may also obtain additional information about the Company from documents we have filed with the Securities and Exchange Commission.

If you have any questions or need assistance voting your shares of our Common Stock, please contact our proxy solicitor at:

D.F. King & Co., Inc.

48 Wall Street, 22nd Floor

New York, NY 10005

Telephone (Collect): (212) 269-5550

Telephone (Toll-Free): (888) 542-7446

Email: bv@dfking.com

Thank you in advance for your cooperation and continued support.

Sincerely,

/s/ Gene Austin

Gene Austin

Chief Executive Officer and President

The accompanying proxy statement and a proxy card are first being mailed on or about December 28, 2017 to our stockholders as of the close of business on December 21, 2017.

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Bazaarvoice, Inc.

10901 Stonelake Boulevard

Austin, Texas 78759

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

December 26, 2017

DATE:	January 29, 2018
TIME:	8:30 a.m. CST
PLACE:	401 Congress Avenue, Suite 2500 Austin, Texas 78701
ITEMS OF BUSINESS:	1. To consider and vote on a proposal (the Merger Proposal) to adopt the Merger Agreement and approve the Merger. A copy of the Merger Agreement is attached as **Annex A** to the accompanying proxy statement. 2. To consider and vote on a proposal (the Adjournment Proposal) to adjourn the Special Meeting, if necessary and for a minimum period of time reasonable under the circumstances, to ensure that any necessary supplement or amendment to the proxy statement accompanying this notice is provided to Company stockholders a reasonable amount of time in advance of the Special Meeting, or to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve the proposal to adopt the Merger Agreement and approve the Merger. 3.

To consider and vote on a proposal (the Compensation Proposal), to approve, by non-binding, advisory vote, certain compensation arrangements for the Company s named executive officers in connection with the Merger.

4. To transact any other business that may properly come before the Special Meeting or any adjournment, postponement or other delay of the Special Meeting.

RECORD DATE:

Only stockholders of record at the close of business on December 21, 2017 are entitled to notice of, and to vote at, the Special Meeting. All stockholders of record as of that date are cordially invited to attend the Special Meeting in person.

PROXY VOTING:

Your vote is very important, regardless of the number of shares of Common Stock you own.

The Merger cannot be completed unless the Merger Proposal is approved by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock entitled to vote thereon.

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Even if you plan to attend the Special Meeting in person, we request that you complete, sign, date and return, as promptly as possible, the enclosed proxy card in the accompanying prepaid reply envelope or submit your proxy by telephone or the Internet prior to the Special Meeting to ensure that your shares of Common Stock will be represented at the Special Meeting if you are unable to attend.

If you fail to return your proxy card or fail to submit your proxy by phone or the Internet, your shares of Common Stock will not be counted for purposes of determining whether a quorum is present at the Special Meeting and will have the same effect as a vote against the Merger Proposal.

If you are a stockholder of record, voting in person at the Special Meeting will revoke any proxy previously submitted. If you hold your shares of Common Stock through a bank, brokerage firm or other nominee, you should follow the procedures provided by your banker, brokerage firm or other nominee in order to vote.

RECOMMENDATION:

The Board of Directors has (i) determined that the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement are fair to, and in the best interests of, the Company and its stockholders, (ii) adopted, approved and declared advisable the Merger Agreement, the Merger and other transactions contemplated by the Merger Agreement and (iii) resolved to recommend that the Company s stockholders adopt the Merger Agreement and approve the Merger at a stockholders meeting duly called and held for such purpose. Approval of the Merger Proposal requires the affirmative vote of holders of a majority of the outstanding shares of our Common Stock entitled to vote thereon.

The Board of Directors recommends that you vote:

FOR approval of the Merger Proposal;

FOR approval of the Adjournment Proposal; and

FOR approval of the Compensation Proposal.

ATTENDANCE:

Only stockholders of record, their duly authorized proxy holders, beneficial stockholders with proof of ownership and our guests may

attend the Special Meeting. To gain admittance, you must present valid photo identification, such as a driver s license or passport. If your shares of Common Stock are held through a bank, brokerage firm or other nominee, please bring to the Special Meeting a copy of your brokerage statement evidencing your beneficial ownership of the Common Stock of the Company and valid photo identification. If you are the representative of a corporate or institutional stockholder, you must present valid photo identification along with proof that you are the representative of such stockholder. The Special Meeting will follow the agenda and rules of conduct provided to all stockholders and proxy holders upon entering the meeting. The purpose and order of the Special Meeting will be strictly observed, and the chairman s or secretary s determinations in that regard will be final, including any postponements or adjournments of the meeting. Please note that

media will not be allowed to attend the Special Meeting and the taking of photographs and the use of audio and video recording devices, will not be permitted at the Special Meeting.

APPRAISAL: Stockholders who do not vote in favor of the Merger Proposal and who follow the procedures described under Appraisal Rights beginning on page 98 will have the right to seek appraisal of the fair value of their shares of Common Stock if they perfect and do not withdraw a demand for (or lose their right to) appraisal before the vote is taken on the Merger Agreement and comply with all the requirements of Delaware law, which are summarized in the accompanying proxy statement and reproduced in their entirety in **Annex B** to the accompanying proxy statement.

WHETHER OR NOT YOU PLAN TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, DATE, SIGN AND RETURN, AS PROMPTLY AS POSSIBLE, THE ENCLOSED PROXY CARD IN THE ACCOMPANYING PREPAID REPLY ENVELOPE, OR SUBMIT YOUR PROXY BY TELEPHONE OR THE INTERNET. IF YOU ATTEND THE SPECIAL MEETING AND VOTE IN PERSON, YOUR VOTE BY BALLOT WILL REVOKE ANY PROXY PREVIOUSLY SUBMITTED.

By Order of the Board of Directors,

/s/ Kin Gill

Kin Gill

Chief Legal Officer, General Counsel and Secretary

December 26, 2017

Austin, Texas

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SUMMARY

The following summary highlights selected information in this proxy statement and may not contain all the information that may be important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to in this proxy statement. You may obtain the information incorporated by reference in this proxy statement without charge by following the instructions under Where You Can Find More Information.

Parties to the Merger

Bazaarvoice, Inc. is a Delaware corporation headquartered in Austin, Texas. The Company, a provider of consumer-generated content (CGC), advertising, and personalization solutions, helps brands and retailers find and reach consumers, and win them with the content they trust. The Company s Common Stock is listed on The NASDAQ Global Select Market LLC (NASDAQ) under the symbol BV. The principal executive offices of the Company are located at 10901 Stonelake Boulevard, Austin, Texas 78759, and its telephone number is (512) 551-6000.

BV Parent, LLC is a Delaware limited liability company and was formed on November 22, 2017, solely for the purpose of engaging in the transactions contemplated by the Merger Agreement. As of the date of this proxy statement, Parent has not engaged in any business activities other than those incidental to its formation and in connection with the transactions contemplated by the Merger Agreement and arranging of the Equity Financing and Debt Financing (as described below) in connection with the Merger. The principal executive offices of Parent are located at 338 Pier Avenue, Hermosa Beach, CA 90254, and its telephone number is (310) 364-0100.

BV Merger Sub, Inc. is a Delaware corporation and a wholly owned direct subsidiary of Parent and was formed on November 22, 2017 solely for the purpose of engaging in the transactions contemplated by the Merger Agreement. As of the date of this proxy statement, Merger Sub has not engaged in any business activities other than those incidental to its formation and in connection with the transactions contemplated by the Merger Agreement and arranging of the Equity Financing and Debt Financing in connection with the Merger. The principal executive offices of Merger Sub are located at 338 Pier Avenue, Hermosa Beach, CA 90254, and its telephone number is (310) 364-0100.

Parent and Merger Sub are affiliated with Marlin Equity. In connection with the transactions contemplated by the Merger Agreement, (i) Marlin Equity has provided to Parent, equity commitments of up to $235 million; and (ii) Merger Sub has obtained a Debt Financing commitment from Golub Capital Markets LLC, TPG Specialty Lending, Inc., and certain of their respective affiliates (collectively, the Debt Financing Sources) for an aggregate amount of $245 million, which will be available to fund a portion of the payments contemplated by the Merger Agreement (in each case, pursuant to the terms and conditions as described further under the caption The Merger Financing of the Merger).

The Special Meeting

Time, Place and Purpose of the Special Meeting

The Special Meeting will be held on January 29, 2018, at 8:30 a.m. CST, at 401 Congress Avenue, Suite 2500, Austin, Texas 78701.

At the Special Meeting, holders of our Common Stock will be asked to:

1. consider and approve the proposal (the Merger Proposal) to adopt the Merger Agreement and approve the Merger, as more fully described in this proxy statement and under Proposal 1: Adoption of the Merger Agreement beginning on page 92;

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2. consider and approve the proposal (the Adjournment Proposal) to adjourn the Special Meeting, if necessary and for a minimum period of time reasonable under the circumstances, to ensure that any necessary supplement or amendment to this proxy statement is provided to Company stockholders a reasonable amount of time in advance of the Special Meeting, or to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve the Merger Proposal, as more fully described in this proxy statement and under Proposal 2: Adjournment of the Special Meeting beginning on page 92; and

3. consider and approve the proposal (the Compensation Proposal) to approve, by non-binding, advisory vote, certain compensation arrangements for the Company s named executive officers in connection with the Merger, as more fully described in this proxy statement and under Proposal 3: Advisory Vote on Merger-Related Compensation for the Company s Named Executive Officers beginning on page 92.

Record Date and Quorum

You are entitled to receive notice of, and to vote at, the Special Meeting if you owned shares of Common Stock at the close of business on December 21, 2017, which the Company has set as the record date for the Special Meeting (the Record Date). You will have one vote for each share of Common Stock that you owned on the Record Date. As of the Record Date, there were 86,200,470 shares of Common Stock outstanding and entitled to vote at the Special Meeting. The presence at the Special Meeting, in person or represented by proxy, of the holders of a majority of the Common Stock issued and outstanding and entitled to vote on the Record Date will constitute a quorum, permitting the conduct of business at the Special Meeting. Abstentions and broker non-votes (as described below) are counted as present for the purpose of determining whether a quorum is present.

Vote Required

Approval of the Merger Proposal requires the affirmative vote of the holders of a majority of the outstanding shares of Common Stock entitled to vote thereon. Abstentions and broker non-votes will have the same effect as a vote against approval of the Merger Proposal.

Approval of the Adjournment Proposal requires the affirmative vote of the holders of a majority of the shares of Common Stock present in person or represented by proxy and entitled to vote on the matter at the Special Meeting, whether or not a quorum is present. Abstentions will have the same effect as a vote against approval of this proposal. Broker non-votes are not counted for purposes of this proposal.

Approval of the Compensation Proposal requires the affirmative vote of holders of a majority of the shares of Common Stock present, in person or represented by proxy, at the Special Meeting and entitled to vote on this proposal. The Company is providing stockholders with the opportunity to approve, on a non-binding, advisory basis, such Merger-related executive compensation in accordance with Section 14A of the Securities Exchange Act of 1934 (as amended) (the Exchange Act). Abstentions will have the same effect as a vote against approval of this proposal. Broker non-votes are not counted for purposes of this proposal.

Proxies and Revocation

Any stockholder of record entitled to vote at the Special Meeting may submit a proxy by telephone, over the Internet, by returning the enclosed proxy card in the accompanying prepaid reply envelope, or may vote in person by appearing at the Special Meeting. If your shares of Common Stock are held in street name through a bank, brokerage firm or other nominee, you should instruct your bank, brokerage firm or other nominee on how to vote your shares of Common Stock using the instructions provided by your bank, brokerage firm or other nominee. If

you fail to submit a proxy or to vote in person at the Special Meeting, or do not provide your bank, brokerage firm or other nominee with instructions, as applicable, your shares of Common Stock will not be voted on the Merger Proposal, which will have the same effect as a vote against approval of the Merger Proposal, and your shares of Common Stock will not have an effect on the Adjournment Proposal or on the Compensation Proposal.

You have the right to revoke a proxy, whether delivered over the Internet, by telephone or by mail, at any time before it is exercised, by voting again at a later date through any of the methods available to you, by giving written notice of revocation to our Secretary or by attending the Special Meeting and voting in person.

The Merger

Upon the terms and subject to the conditions of the Merger Agreement, if the Merger is completed, Merger Sub will merge with and into the Company. The Company will be the surviving corporation in the Merger (the Surviving Corporation), and will be the wholly owned direct subsidiary of Parent and will continue to do business following the consummation of the Merger. As a result of the Merger, the Company will cease to be a publicly traded company. In addition, our Common Stock will be delisted from NASDAQ and deregistered under the Exchange Act, and we will no longer file periodic reports with the SEC. If the Merger is completed, you will not own any shares of the capital stock of Parent or the Surviving Corporation.

At the effective time of the Merger (the Effective Time), the certificate of incorporation and bylaws of the Surviving Corporation will be amended and restated as provided in the Merger Agreement. Except as otherwise directed by Parent, the directors of the Surviving Corporation will, from and after the Effective Time, be the individuals who are the directors of the Merger Sub immediately prior to the Effective Time. Except as otherwise directed by Parent, the officers of the Surviving Corporation will, from and after the Effective Time, be the individuals who are the officers of the Company immediately prior to the Effective Time.

Per Share Merger Consideration

In the Merger, each outstanding share of Common Stock (other than shares held by the Company as treasury stock or owned by Parent, Merger Sub or any other direct or indirect wholly owned subsidiary of Parent and shares of Common Stock owned by the Company or any direct or indirect wholly owned subsidiary of the Company and shares of Common Stock owned by stockholders who have perfected and not withdrawn a demand for, or lost their right to, appraisal with respect to such shares of Common Stock (collectively the Excluded Shares)) will be converted into the right to receive an amount in cash equal to $5.50, without interest thereon (the Per Share Merger Consideration), less any applicable withholding taxes.

Recommendation of the Board of Directors

The Board of Directors has (i) determined that the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement are fair to, and in the best interests of, the Company and its stockholders, (ii) adopted, approved and declared advisable the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement and (iii) resolved to recommend that the Company s stockholders adopt the Merger Agreement and approve the Merger at a stockholders meeting duly called and held for such purpose. The Board of Directors made its determination after consultation with its legal and financial advisors and consideration of a number of factors. For some of the factors considered, see The Merger Reasons for Recommendation.

In considering the recommendation of the Board of Directors with respect to the Merger Proposal, you should be aware that our directors and executive officers have interests in the Merger that may be different from, or in addition

to, yours. The Board of Directors was aware of and considered these interests, among other matters, in evaluating the Merger and in recommending that the Merger Agreement be adopted by the stockholders of the Company. See under the heading The Merger Interests of Directors and Executive Officers in the Merger.

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The Board of Directors recommends that you vote:

- **FOR approval of the Merger Proposal;**
- **FOR approval of the Adjournment Proposal; and**
- **FOR approval of the Compensation Proposal.**

Opinion of GCA Advisors, LLC

GCA Advisors, LLC (GCA Advisors) was retained as financial advisor to the Company in connection with a potential transaction. We selected GCA Advisors to act as our financial advisor based on GCA Advisors qualifications, expertise, reputation and knowledge of our business and affairs and the industry in which we operate. GCA Advisors is a global investment bank serving a broad client base through a range of advisory services, including mergers and acquisitions, debt and equity capital markets, private funds, restructuring, and asset management. GCA Advisors is continuously involved with providing advisory services that include the valuation of businesses and securities in connection with mergers and acquisitions. GCA Advisors delivered its written opinion to the Board of Directors, dated November 26, 2017, to the effect that, as of such date and based upon and subject to the factors and assumptions set forth in its opinion, the Per Share Merger Consideration to be paid to the holders of Common Stock in the proposed Merger was fair, from a financial point of view, to such holders.

The full text of the written opinion of GCA Advisors, dated November 26, 2017, which sets forth the assumptions made, matters considered and limits of the review undertaken, is attached as Annex C to this proxy statement and is incorporated into this proxy statement by reference. The summary of the opinion of GCA Advisors set forth in this proxy statement is qualified in its entirety by reference to the full text of such opinion. The Company s stockholders are urged to read the opinion in its entirety. GCA Advisors delivered its opinion to the Board of Directors for the benefit and use of the Board of Directors in connection with and for purposes of its evaluation of the Per Share Merger Consideration from a financial point of view. GCA Advisors opinion did not constitute a recommendation to the Board of Directors or any committee thereof, the Company s stockholders, or any other person as to any specific action that should be taken in connection with the Merger, including whether the Company s stockholders should vote for the Merger Proposal. The opinion does not address the Company s underlying business decision to enter into the Merger Agreement, or the relative merits of the Merger as compared to any alternatives that may be available to the Company. GCA Advisors was not asked to, nor has it, offered any opinion as to the material terms of the Merger Agreement (other than as expressly set forth in the last paragraph of the opinion with respect to the fairness of the Per Share Merger Consideration) or the structure of the Merger.

Financing of the Merger

We anticipate that the total funds needed by Parent and Merger Sub to:

- pay our stockholders and holders of equity awards the amounts due to them under the Merger Agreement upon the consummation of the Merger; and

pay related fees and expenses in connection with the Merger and associated transactions will be approximately $520 million.

We anticipate that the funds needed to pay the amounts described above will be obtained as follows:

Equity Financing to be provided to Parent by Marlin Equity or other parties to whom it assigns a portion of its commitment, in an aggregate amount of up to $235 million; and

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Debt Financing to Merger Sub in the form of a senior secured term loan facility and a senior secured revolving credit facility in an aggregate principal amount of $245 million, on the terms and subject to the conditions set forth in the Debt Commitment Letter.

We believe the amounts committed under the Equity Commitment Letter and the Debt Commitment Letter, each as described below, will be sufficient to complete the Merger and pay related fees and expenses in connection with the Merger and associated transactions and repay or refinance the outstanding indebtedness of the Company that will be payable as a result of the Merger, but we cannot assure you of that. Those amounts may be insufficient if, among other things, Marlin Equity fails to purchase its committed amounts in breach of its Equity Commitment Letter, the commitment parties under the Debt Commitment Letter fail to fund the committed amounts in breach of such Debt Commitment Letter, or the fees, expenses or other amounts required to be paid in connection with the Merger are greater than anticipated.

Equity Commitments

Parent and Merger Sub have entered into a letter agreement, dated as of November 26, 2017 (the Equity Commitment Letter), pursuant to which Marlin Equity committed to capitalize Parent, at or immediately prior to the Effective Time, with an aggregate common equity contribution in an amount of up to $235 million (the Equity Financing), subject to the terms and conditions set forth therein. Under certain circumstances, the Company is entitled to seek specific performance to cause Parent to draw down the full proceeds of the Equity Financing in connection with the consummation of the Merger pursuant to the terms and conditions of the Equity Commitment Letter and the Merger Agreement.

For more information regarding the equity commitments, see The Merger Financing of the Merger Equity Commitments.

Debt Commitments

Merger Sub has entered into a commitment letter and a fee letter, each initially dated as of November 26, 2017, and each later amended and restated as of December 13, 2017, with the debt commitment parties party thereto (collectively, the Debt Commitment Letter) pursuant to which the Debt Financing Sources have committed to provide Debt Financing to Merger Sub in the form of a senior secured term loan facility and a senior secured revolving credit facility of up to $245 million in the aggregate, on the terms and subject to the conditions set forth in the Debt Commitment Letter. We refer to the aggregate amounts committed under the Debt Commitment Letter as the Debt Financing. For more information regarding the debt commitments, see The Merger Financing of the Merger Debt Commitments.

Limited Guarantee

Pursuant to a Limited Guarantee dated November 26, 2017, delivered by Marlin Equity (the Guarantors) in favor of the Company (the Limited Guarantee), the Guarantors have agreed to guarantee the due, prompt and complete payment to the Company of an amount equal to the Parent termination fee and certain indemnification and expense reimbursement obligations if and to the extent such amounts are payable under the Merger Agreement, subject to an aggregate cap of $26.1 million.

Interests of Directors and Executive Officers in the Merger

In considering the recommendation of the Board of Directors with respect to the proposed Merger, you should be aware that executive officers and directors of the Company may have certain interests in the Merger that may be

different from, or in addition to, the interests of the Company s stockholders generally. The Board of Directors was aware of and considered these interests, among other matters, in evaluating the Merger and in recommending

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that the Merger Agreement be adopted by the stockholders of the Company. These interests include the following:

- the acceleration of vesting with respect to shares of restricted stock held by non-employee members of our Board of Directors;

- the cancellation and cash out of vested in-the money stock options to acquire Common Stock for all service providers;

- other than those members of our management team described below, 30% acceleration of unvested in-the-money options and the unvested portion of restricted stock units (RSUs) and the conversion of the remaining options and RSUs into the right to receive cash following the Merger as the underlying vesting conditions on those options and RSUs, respectively, are satisfied;

- for certain of our management team members, treatment of equity awards as described under The Merger Agreement Treatment of Equity ;

- for our executive officers, certain severance and other separation benefits that may be payable upon termination of employment following the consummation of the Merger; and

- the entitlement to continued indemnification and insurance coverage under the Merger Agreement.

For further information with respect to the arrangements between the Company and our directors and executive officers, see the information included under the headings The Merger Interests of Directors and Executive Officers in the Merger and Proposal 3: Advisory Vote on Merger-Related Compensation for the Company s Named Executive Officers.

Material U.S. Federal Income Tax Consequences of the Merger

The exchange of shares of Common Stock for cash pursuant to the Merger generally will be a taxable transaction to U.S. holders for U.S. federal income tax purposes. Stockholders that are U.S. holders and that exchange their shares of Common Stock in the Merger will generally recognize gain or loss in an amount equal to the difference, if any, between the cash received pursuant to the Merger, including any applicable withholding taxes, and their adjusted tax basis in their shares of Common Stock. Backup withholding (currently at a rate of 28%) may also apply to the cash received pursuant to the Merger unless such U.S. holder provides a taxpayer identification number, certifies that such number is correct and otherwise complies with the backup withholding rules. You should read The Merger Material U.S. Federal Income Tax Consequences of the Merger beginning on page 65 for a definition of U.S. holder and a more detailed discussion of the U.S. federal income tax consequences of the Merger. You should also consult your tax advisor for a complete analysis of the effect of the Merger on your federal, state and local and/or foreign taxes.

Regulatory Approvals

Under the terms of the Merger Agreement, the Merger cannot be completed until, following the submission of required filings with the relevant governmental authorities, the waiting period applicable to the consummation of the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the HSR Act), has expired or been terminated.

On December 7, 2017, the Company and Parent filed notification of the proposed Merger with the Federal Trade Commission and the Department of Justice (the DOJ) under the HSR Act. The waiting period for the notification filed under the HSR Act was terminated on December 21, 2017.

Although we expect that all required regulatory clearances and approvals will be obtained, we cannot assure you that these regulatory clearances and approvals will be timely obtained or obtained at all or that the granting of

these regulatory clearances and approvals will not involve the imposition of additional conditions on the completion of the Merger, including the requirement to divest assets, or require changes to the terms of the Merger Agreement. These conditions or changes could result in the conditions to the Merger not being satisfied on a timely basis or at all.

Legal Proceedings Regarding the Merger

In connection with the Merger Agreement and the transactions contemplated thereby, a purported class action lawsuit captioned Michael Schlaffer, Individually and on Behalf of All Others Similarly Situated v. Bazaarvoice, Inc. et al., has been filed on December 22, 2017 in the District Court, 201st Judicial District, Travis County, Texas. In general, the complaint asserts that, among other things, the members of the Board of Directors breached their fiduciary duties to stockholders by undergoing an unfair process that undervalues the Company, and by failing to disclose material information relating thereto. The complaint generally seeks to enjoin or rescind the Merger or, if consummated, recover damages resulting therefrom. Also on December 22, 2017, a purported class action lawsuit was filed, captioned Michael Schlaffer, Individually and on Behalf of All Others Similarly Situated v. Bazaarvoice, Inc. et al., in the United States District Court, Western District of Texas. In general, the complaint asserts that, among other things, the Company violated certain provisions of the Exchange Act by filing this proxy statement, which allegedly contains materially incomplete and misleading information. The complaint generally seeks to enjoin the Company from taking any steps to consummate the Merger until the omitted information is disseminated to stockholders, or, if the Merger is consummated, rescind the transaction or recover damages resulting therefrom. The Company believes that the above described claims are without merit and intends to vigorously defend both actions.

The Merger Agreement

Treatment of Equity

Common Stock. At the Effective Time, each share of Common Stock issued and outstanding immediately prior thereto (other than Excluded Shares) will be converted into the right to receive the Per Share Merger Consideration, without interest and less any applicable withholding taxes. Each share held by the Company as treasury stock or owned by Parent, Merger Sub or any other direct or indirect wholly owned subsidiary of the Company or Parent shall be canceled and will not be entitled to any Per Share Merger Consideration. Common Stock owned by stockholders who have perfected and not withdrawn a demand for, or lost the right to, appraisal under the General Corporation Law of the state of Delaware (the DGCL) will instead be entitled to the appraisal rights provided under the DGCL as described under Appraisal Rights and such Common Stock will be canceled and cease to be outstanding.

Vested Stock Options. At the Effective Time, each outstanding vested option to acquire Common Stock will be canceled and converted to the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

Unvested Stock Options. At the Effective Time, outstanding unvested options to acquire Common Stock that have an exercise price per share that is equal to or more than the Per Share Merger Consideration, will, to the extent not exercised prior to the Effective Time, be canceled for no consideration. At the Effective Time,

other than with respect to Gary Allison, Eugene Austin, Kinloch Gill, Michael Paulson, Ryan Robinson, Joseph Rohrlich, Sara Spivey and Kelly Trammel (the ELT Members), thirty percent (30%) of a holder s outstanding unvested options to acquire Common Stock (rounded up to the nearest whole share) that have an exercise price per share that is less than the Per Share Merger Consideration shall fully vest and become exercisable, and to the extent not exercised prior to the Effective Time, canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by

(2) the number of shares subject to such stock option. At the Effective Time, other than with respect to the ELT Members, each holder s remaining outstanding unvested options to acquire Common Stock will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, to be paid in accordance with the original vesting conditions applicable to the underlying options on the Surviving Corporation s next regular payroll date following the applicable vesting date.

Unvested Stock Options Held by ELT Members. At the Effective Time, outstanding unvested options to acquire Common Stock held by the ELT Members that have an exercise price per share that is less than the Per Share Merger Consideration, shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, which shall be paid as follows:

twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

forty percent (40%) will be paid in the form of a number of equity interests in MEP-BV Topco, LP, an affiliate of Parent (Topco), consisting of one Class A Preferred Unit and one Class B Common Unit (collectively, the Topco Units) for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested stock options that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such stock options(with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest (the Topco Profits Interests) and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Restricted Stock Units. At the Effective Time, other than with respect to the ELT Members, thirty percent (30%) of the unvested portion of a holder s RSUs (rounded up to the nearest whole share) shall fully vest, and the holders of such RSUs will be entitled to receive, in exchange for the cancellation of such portion of the RSUs, an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs. At the Effective Time, other than with respect to the ELT Members, each holder s remaining unvested RSUs will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested RSUs, to be paid in accordance with the original vesting conditions

applicable to the underlying RSUs on the Surviving Corporation s next regular payroll date following the applicable vesting date.

Restricted Stock Units Held by ELT Members. At the Effective Time, outstanding unvested RSUs held by the ELT Members shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs, which shall be paid as follows:

Twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

Forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged,

subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested RSUs that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such RSUs (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

The remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Restricted Stock. At the Effective Time, all outstanding unvested shares of restricted stock shall be cancelled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested shares of restricted stock.

Payment. Unless otherwise noted, the payments in respect of such stock options, RSUs and restricted stock will be paid, without interest, as soon as practicable, but in no event later than the date that is the later of five business days following the Effective Time and the Surviving Corporation s first regular payroll date after the Effective Time. If a holder holds multiple stock options or RSU awards, each such award will be divided pro rata in accordance with the divisions set forth above.

Details of Class A Preferred Units and Class B Common Units of Topco. Immediately prior to the Effective Time, the ELT Members will enter into a subscription agreement as required under the limited partnership agreement of Topco, and a grant agreement under the profits interests plan of Topco. The Class A Preferred Units will accrue a 12% annual preferred return, compounded quarterly. Distributable funds of Topco will be distributed first to the Class A Preferred Units in the amount of the accrued preferred return followed by a return of the invested capital in respect of the Class A Preferred Units. Any subsequent distributions will be to the holders of Class B Common Units, pro rata. The ELT Members entitlement to allocations, distributions and other rights with respect to the Class A Preferred Units and Class B Common Units, as applicable, will be set forth in the partnership agreement of Topco. As of immediately after the Effective Time, the Class B Common Units issued to the ELT Members that are intended to qualify as profits interests will not be entitled to distributions. The aggregate Class A Preferred Units to be issued to the ELT Members in exchange for the cancellation of unvested equity awards held by such ELT Members will represent 1.62% of the total Class A Preferred Units in Topco, no portion of which will be issued to the ELT Members in the form of profits interests. The aggregate Class B Common Units to be issued to the ELT Members in exchange for the cancellation of unvested equity awards held by such ELT Members will represent 6.20% of the total Class B Common Units in Topco, which includes 4.76% of the Class B Common Units of Topco that will be issued to the ELT Members in the form of profits interests.

Treatment of Employee Stock Purchase Plan

Until its termination immediately prior to the Effective Time, the Company s 2012 Employee Stock Purchase Plan (the ESPP) will continue to operate according to its terms, except that commencing on the date of the Merger Agreement, ESPP participants (and those eligible to participate) are not permitted to increase the rate of payroll contributions or commence new contributions to the ESPP. In addition, all participation in and purchases under the ESPP will be suspended on the earlier of the Company s last payroll immediately prior to the Effective Time or 10 business days before the Effective Time, with all outstanding purchases made on such date. After the suspension date, no new offering periods under the ESPP will be commenced and the ESPP will terminate immediately prior to, and contingent upon, the Effective Time. Any cash remaining in the ESPP after purchases occurring on the ESPP suspension date will be refunded to ESPP participants.

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No Solicitation or Negotiation of Takeover Proposals

Under the Merger Agreement none of the Company, any of its subsidiaries or any of its or their respective directors and officers may, and the Company will instruct and use its reasonable best efforts to cause its and its subsidiaries other representatives not to, directly or indirectly:

- initiate, solicit, propose or knowingly encourage or facilitate any inquiries or the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, any acquisition proposal;

- engage in, continue or otherwise participate in any discussions (other than informing any person of the non-solicitation provisions of the Merger Agreement) or negotiations regarding, or provide any non-public information or data to any person relating to, any acquisition proposal or any proposal or offer that would reasonably be expected to lead to an acquisition proposal;

- otherwise knowingly facilitate any effort or attempt to make an acquisition proposal;

- approve, endorse, recommend, or enter into any contract relating to an acquisition proposal (other than a permitted confidentiality agreement); or

- grant any waiver or request under any confidentiality agreement or standstill agreement; provided, however, that the Company is permitted to waive any provision of such an agreement to the extent that it prohibits, or purports to prohibit, a proposal from being made to our Board of Directors or the party to such agreement from requesting that we waive or amend such agreement to permit a proposal from being made to our Board of Directors.

Notwithstanding the restrictions described above, under certain circumstances, prior to the adoption of the Merger Agreement by our stockholders, the Company may provide information to, and engage or participate in negotiations or substantive discussions with, a person regarding an acquisition proposal if the Board of Directors determines in good faith after consultation with its financial advisor and its outside legal counsel that such proposal is a superior proposal or is reasonably likely to lead to a superior proposal and to not do so would be inconsistent with its fiduciary duties. For more information, see The Merger Agreement No Solicitation or Negotiation of Takeover Proposals.

Conditions to Completion of the Merger

The respective obligations of the Company, Parent and Merger Sub to consummate the Merger are subject to the satisfaction or waiver of certain customary conditions, including the adoption of the Merger Agreement by our stockholders, receipt of certain regulatory approvals, the absence of any legal prohibitions, the accuracy of the representations and warranties of the parties, compliance by the parties with their respective obligations under the Merger Agreement, the completion of a marketing period and the absence of a Company material adverse effect. See The Merger Agreement No Change in Recommendation or Alternative Acquisition Agreement.

Termination of the Merger Agreement

The Merger Agreement may be terminated at any time prior to the Effective Time, whether before or after the adoption of the Merger Agreement by the Company s stockholders, under the following circumstances:

- by mutual written consent of the Company and Parent; or
- by either Parent or the Company if:
  - the Merger is not consummated on or before May 26, 2018 (the Termination Date); provided, however, that this right to terminate the Merger Agreement will not be available to any party if the failure of the Merger to be consummated on or before such date was proximately caused by a

material breach or inaccuracy of any of the representations, warranties, covenants, obligations or agreements of such party such that the other party has the right to terminate the Merger Agreement (an Outside Date Termination);

the Company stockholders fail to adopt the Merger Proposal at the Special Meeting or at any adjournment or postponement thereof (a Stockholder No-Vote Termination);

any order restraining, enjoining or otherwise prohibiting (in each case, to a date following the Termination Date) consummation of the Merger becomes final and non-appealable (whether before or after the receipt of the requisite Company stockholder vote); provided, however, that this right to terminate the Merger Agreement will not be available to any party if the issuance of such order was proximately caused by the failure of such party to materially fulfill its obligations under the Merger Agreement; or

by the Company if:

at any time prior to the Effective Time, Parent or Merger Sub breaches any representation, warranty, covenant or agreement in the Merger Agreement, or any such representation or warranty has become inaccurate after the date of the Merger Agreement, such that certain corresponding conditions set forth in the Merger Agreement are not satisfied, and such breach is not capable of being cured, or if curable through commercially reasonable efforts, is not cured within 30 calendar days following the Company s delivery of written notice of such breach; provided, however, that this right to terminate the Merger Agreement will not be available to the Company if the Company is, at the time of termination, in material breach of any of its covenants or agreements under the Merger Agreement or any of its representations and warranties have become inaccurate such that, in either case, Parent has the right to terminate the Merger Agreement (a Parent Breach Termination);

the Company s Board of Directors has made a change of recommendation and entered into an alternate acquisition proposal with respect to a superior proposal (without having materially breached its obligations under the Merger Agreement with respect to the non-solicitation of alternate acquisition proposals) and the Company pays the applicable termination fee to Parent (a Superior Proposal Company Termination);

(i) in the event that certain of the conditions to closing have been satisfied or have been waived; (ii) the full proceeds to be provided to Parent and Merger Sub by the Debt Financing are not available to Parent or Merger Sub on the terms as set forth in the Debt Commitment Letter (or any replacement commitment letter permitted under the Merger Agreement) to consummate the Merger; (iii) the Company has given notice in writing representing that it is ready, willing and able to complete the Closing; and (iv) Merger Sub shall have failed to consummate the Merger within three business days following receipt of such notice from the Company (a Failure to Close Termination); or

by Parent if:

at any time prior to the Effective Time, the Company breaches any representation, warranty, covenant or agreement in the Merger Agreement, or any such representation or warranty has become inaccurate after the date of the Merger Agreement, such that certain corresponding conditions set forth in the Merger Agreement are not satisfied, and such breach is not capable of being cured, or if curable through commercially reasonable efforts, is not cured within 30 calendar days following Parent s delivery of written notice of such breach; provided, however, that this right to terminate the Merger Agreement will not be available to Parent if Parent is, at the time of termination, in material breach of any of its covenants or agreements under the Merger Agreement or any of its representations and warranties have become inaccurate such that, in either case, the Company has the right to terminate the Merger Agreement (a Company Breach Termination);

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prior to the Effective Time, (i) the Board of Directors has made a change of recommendation, (ii) the Board of Directors has approved, endorsed or recommended to the Company s stockholders an alternate acquisition proposal; (iii) a tender offer or exchange offer for outstanding shares of Common Stock has been commenced (other than by the Parent or an affiliate of the Parent) and the Board of Directors has recommend that the Company s stockholders tender their shares in such tender or exchange offer; or (iv) the Company has materially breached its obligations under the Merger Agreement with respect to the non-solicitation of alternate acquisition proposals; provided however that Parent s right to terminate under this provision must occur within five business days after Parent is given written notice by the Company of the applicable event (a termination under clauses (i), (ii) or (iii), a Superior Proposal Parent Termination);

prior to the Effective Time, (i) the Board of Directors has failed to include the Board of Directors recommendation in the proxy statement or (ii) a tender offer or exchange offer for outstanding shares of Common Stock has been commenced (other than by the Parent or an affiliate of the Parent) and the Board of Directors has failed to recommend against acceptance of such tender or exchange offer within 10 business days after the commencement of such offer; provided, that any such termination must occur within five business days after the Parent is given written notice by the Company of the applicable event (a Failure to Recommend Termination); or

if there has been, individually or in the aggregate, a Company Material Adverse Effect.

Termination Fees

The Company on the one hand and Parent on the other will each be required to pay a termination fee if the Merger Agreement is terminated under specified circumstances.

The Company must pay Parent a termination fee of $18.27 million (less any expenses previously paid to Parent by the Company) if:

each of the following occurs:

(i) either party effects an Outside Date Termination (other than a termination resulting from the failure of Merger to close prior to the Termination Date because of the lack of satisfaction of closing conditions with respect to the receipt of certain regulatory approvals and the absence of any legal prohibitions); (ii) Parent effects a Company Breach Termination; or (iii) Parent effects a termination as a result of the Company materially breaching its obligations under the Merger Agreement with respect to the non-solicitation of alternate acquisition proposals;

after the date of the Merger Agreement and prior to the termination, an offer or proposal to merge, consolidate or acquire at least 50% of the Company s stock or assets (other than a re-affirmation of an offer provided prior to the date of the Merger Agreement) or a material revision to such an offer becomes publicly known or known to the Board of Directors and includes a price per share for each share of Common Stock equal to or greater than the Per Share Merger Consideration;

at the time of termination, neither the Equity Commitment Letter nor the Debt Commitment Letter has been terminated, withdrawn or rescinded without being replaced by alternate financing considerations sufficient to consummate the Merger; and

within 12 months of the termination of the Merger Agreement, the Company enters into an agreement for a transaction contemplated by such offer or proposal and subsequently consummates such transaction;

the Company effects a Superior Proposal Company Termination; or

Parent effects a Superior Proposal Parent Termination or a Failure to Recommend Termination.

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Parent must pay to the Company a termination fee of $26.1 million if the Company effects a Failure to Close Termination.

Expenses

The Company will be required to reimburse Parent for up to $2 million of its expenses associated with the transaction (the Parent Expenses) if Parent effects a Company Breach Termination.

Specific Performance

In the event of a breach or threatened breach of any covenant or obligation in the Merger Agreement, subject to the immediately following paragraph, the non-breaching party will be entitled to seek an injunction, specific performance or other equitable relief to prevent any breaches or threatened breaches of the Merger Agreement or specifically enforce the terms of the Merger Agreement.

Notwithstanding the foregoing, the Company will be entitled to seek an injunction, specific performance or other equitable remedy in connection with enforcing Parent s obligation to cause the Equity Financing to be funded (and to exercise its third-party beneficiary rights under the Equity Commitment Letter) and to consummate the Merger only in the event that (1) all conditions to Parent s and Merger Sub s obligations to close the Merger have been satisfied (other than those conditions that by their terms are to be satisfied at the closing, each of which must be able to be satisfied at the closing), (2) the Debt Financing has been funded or will be funded if the Equity Financing is funded at the closing and (3) the Company has irrevocably confirmed in writing to Parent if specific performance is granted and the Equity and Debt Financings are funded, then it will take such actions required under the Merger Agreement to cause the closing to occur.

Market Price of Common Stock

The closing price of our Common Stock on NASDAQ on November 24, 2017, the last trading day prior to the public announcement of the execution of the Merger Agreement, was $4.80 per share of Common Stock. On December 22, 2017, the most recent practicable date before this proxy statement was mailed to our stockholders, the closing price for our Common Stock on NASDAQ was $5.45 per share of Common Stock, each share of which is entitled to one vote. You are encouraged to obtain current market quotations for our Common Stock in connection with voting your shares of Common Stock.

Appraisal Rights

Stockholders are entitled to appraisal rights under the DGCL in connection with the Merger. This means that you are entitled to have the fair value of your shares of Common Stock determined by the Delaware Court of Chancery and to receive payment based on that valuation in lieu of the Per Share Merger Consideration if you follow exactly the procedures specified under the DGCL. The ultimate amount you receive in an appraisal proceeding may be less than, equal to or more than the amount you would have received under the Merger Agreement.

To exercise your appraisal rights, you must submit a written demand for appraisal to the Company before the vote is taken on the Merger Agreement and you must not vote, either in person or by proxy, in favor of the Merger Proposal. Your failure to follow exactly the procedures specified under the DGCL may result in the loss of your appraisal rights. See Appraisal Rights beginning on page 98 and the text of the Delaware appraisal rights statute reproduced in its entirety as **Annex B** to this proxy statement. If you hold your shares of Common Stock through a bank, brokerage firm or other nominee and you wish to exercise appraisal rights, you should consult with your bank, brokerage firm or

other nominee to determine the appropriate procedures for the making

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of a demand for appraisal by your bank, brokerage firm or other nominee. In view of the complexity of the DGCL, stockholders who wish to pursue appraisal rights should consult their legal and financial advisors promptly.

Delisting and Deregistration of Common Stock

If the Merger is completed, our Common Stock will be delisted from NASDAQ and deregistered under the Exchange Act, and we will no longer file periodic reports with the SEC.

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QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER

The following questions and answers are intended to address briefly some commonly asked questions regarding the Merger, the Merger Agreement and the Special Meeting. These questions and answers may not address all questions that may be important to you as a Company stockholder. Please refer to the Summary and the more detailed information contained elsewhere in this proxy statement, the annexes to this proxy statement and the documents referred to in this proxy statement, which you should read carefully and in their entirety. You may obtain the information incorporated by reference in this proxy statement without charge by following the instructions under Where You Can Find More Information.

Q. Why am I receiving this proxy statement and proxy card or voting instruction form?

A. You are receiving this proxy statement and proxy card or voting instruction form because the Company is holding a Special Meeting and you own shares of Common Stock. This proxy statement describes matters on which we urge you to vote and is intended to assist you in deciding how to vote.

Q. When and where is the Special Meeting?

A. The Special Meeting will be held on January 29, 2018 at 8:30 a.m. CST, at 401 Congress Avenue, Suite 2500, Austin, Texas 78701.

Q. What am I being asked to vote on at the Special Meeting?

A. You are being asked to consider and vote on the Merger Proposal, the Adjournment Proposal and the Compensation Proposal.

Q. What is the proposed Merger and what effects will it have on the Company?

A. The proposed Merger is the acquisition of the Company by Parent pursuant to the Merger Agreement. If the Merger Proposal is approved by our stockholders and the other closing conditions under the Merger Agreement are satisfied or waived, Merger Sub will merge with and into the Company, with the Company becoming a subsidiary of Parent and no longer a publicly held corporation. As a result of the Merger, you, as a holder of Common Stock, will no longer have any interest in our future earnings or growth. In addition, following the Merger, our Common Stock will be delisted from NASDAQ and deregistered under the Exchange Act, and we will no longer file periodic reports with the SEC.

Q. What will I receive if the Merger is completed?

A. Upon completion of the Merger, you will be entitled to receive the Per Share Merger Consideration of $5.50 in cash, without interest thereon, less any applicable withholding taxes, for each share of Common Stock that you own, unless you have properly exercised and not withdrawn your appraisal rights under the DGCL with respect to such shares. For example, if you own 100 shares of Common Stock, you will receive $550.00 in cash in exchange for your shares, less any applicable withholding taxes. You will not own any shares of the capital stock in Parent or the Surviving Corporation. Please do NOT return your stock certificate(s) with your proxy.

Q. How does the Per Share Merger Consideration compare to the market price of our Common Stock prior to announcement of the Merger?

A. The Per Share Merger Consideration represents a premium of approximately 18% to the average closing price of our Common Stock for the 30-calendar day period ending November 24, 2017, the last day of trading prior to the public announcement of the execution of the Merger Agreement.

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Q. How does the Board of Directors recommend that I vote?

A. The Board of Directors recommends that our stockholders vote **FOR** approval of the Merger Proposal, **FOR** approval of the Adjournment Proposal and **FOR** approval of the Compensation Proposal.

Q. When do you expect the Merger to be completed?

A. We are working toward completing the Merger as soon as possible. Assuming timely receipt of required regulatory approvals and satisfaction of other closing conditions, including approval by our stockholders of the Merger Proposal, we expect the Merger to be completed no later than the first calendar quarter of 2018. However, we cannot assure completion by any particular date, if at all.

Q. What happens if the Merger is not completed?

A. If the Merger Agreement is not adopted by the stockholders of the Company or if the Merger is not completed for any other reason, you will not receive any payment for your shares of Common Stock in connection with the Merger. Instead, the Company will remain an independent public company, and our Common Stock will continue to be listed and traded on NASDAQ. Under specified circumstances, the Company may be required to pay to Parent, or be entitled to receive from Parent, a fee with respect to the termination of the Merger Agreement, or to reimburse Parent and its affiliates for their reasonable and documented out-of-pocket fees and expenses as described under The Merger Agreement Termination Fees and Expenses.

Q. What conditions must be satisfied to complete the Merger?

A. Consummation of the Merger is subject to the satisfaction or waiver of specified closing conditions, including (i) the affirmative vote of holders of a majority of our outstanding shares of Common Stock entitled to vote thereon, (ii) the waiting period to the consummation of the Merger under the HSR Act must have expired or been terminated and (iii) other customary closing conditions, including (a) the absence of any legal prohibitions, (b) the accuracy of the representations and warranties of the parties, (c) compliance by the parties with their respective obligations under the Merger Agreement and (d) the absence of a Company material adverse effect.

For a more complete summary of the conditions that must be satisfied or waived prior to the completion of the Merger, see The Merger Agreement Conditions to Completion of the Merger.

Although the obligation of Parent and Merger Sub to consummate the Merger is not subject to any financing condition, the Merger Agreement provides that, without Parent s agreement, the completion of a marketing period is a condition to the closing of the Merger. For a more complete summary of the marketing period, see The Merger Agreement Marketing Period.

Q. Is the Merger expected to be taxable to me?

A. The exchange of shares of Common Stock for cash pursuant to the Merger generally will be a taxable transaction to U.S. holders (as defined in The Merger Material U.S. Federal Income Tax Consequences of the Merger) for U.S. federal income tax purposes. If you are a U.S. holder and you exchange your shares of Common Stock in the Merger for cash, you will generally recognize gain or loss in an amount equal to the difference, if any, between the amount of cash received with respect to such shares, including any applicable withholding taxes, and your adjusted tax basis in such shares of Common Stock. Backup withholding may also apply to the cash received by a non-corporate U.S. holder pursuant to the Merger unless such U.S. holder provides a taxpayer identification number, certifies that such number is correct and otherwise complies with the backup withholding rules. You should read The Merger Material U.S. Federal Income Tax Consequences of the Merger for a more detailed discussion of the U.S. federal income tax consequences of the Merger. You should also consult your tax advisor for a complete analysis of the effect of the Merger on your federal, state and local and/or foreign taxes.

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Q: What will holders of Company equity-based awards receive in the Merger?

A: At the Effective Time:

Each outstanding unvested option to acquire Common Stock that has an exercise price per share that is equal to or more than the Per Share Merger Consideration will, to the extent not exercised prior to the Effective Time, be canceled for no consideration.

Each outstanding vested option to acquire Common Stock will be canceled and converted to the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

Other than with respect to the ELT Members, thirty percent (30%) of a holder s outstanding unvested options to acquire Common Stock (rounded up to the nearest whole share) that have an exercise price per share that is less than the Per Share Merger Consideration shall fully vest and become exercisable, and to the extent not exercised prior to the Effective Time, canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

Other than with respect to the ELT Members, each holder s remaining outstanding unvested options to acquire Common Stock will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions)equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, to be paid in accordance with the original vesting conditions applicable to the underlying options on the Company s next regular payroll date following the applicable vesting date.

Outstanding unvested options to acquire Common Stock held by the ELT Members that have an exercise price per share that is less than the Per Share Merger Consideration shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, which shall be paid as follows:

twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or

deductions on the percentage of the consideration in respect of such unvested stock options that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such stock options (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Other than with respect to the ELT Members, thirty percent (30%) of the unvested portion of a holder s RSUs (rounded up to the nearest whole share) shall fully vest and the holders of such RSUs will be entitled to receive, in exchange for the cancellation of such portion of the RSUs, an amount in cash

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(subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs.

Other than with respect to the ELT Members, each holder s remaining unvested RSUs will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested RSUs, to be paid in accordance with the original vesting conditions applicable to the underlying RSUs on the Company s next regular payroll date following the applicable vesting date.

Outstanding unvested RSUs held by the ELT Members shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs, which shall be paid as follows:

twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested RSUs that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such RSUs (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

All outstanding unvested shares of restricted stock shall be cancelled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested shares of restricted stock.

Unless otherwise noted, the payments in respect of such stock options, RSUs and restricted stock will be paid, without interest, as soon as practicable, but in no event later than the date that is the later of five business days following the Effective Time and the Company s first regular payroll date after the Effective Time. If a holder holds multiple stock options or RSU awards, each such award will be divided pro rata in accordance with the divisions set forth above.

Q. Why am I being asked to consider and vote on a proposal to approve, by non-binding, advisory vote, certain compensation arrangements for the Company s named executive officers in connection with the Merger?

A. SEC rules require us to seek a non-binding, advisory vote with respect to the compensation that will or may be paid or become payable to our named executive officers that is based on or otherwise relates to the Merger.

Q. What will happen if the Company s stockholders do not approve the compensation that will or may become payable to our named executive officers in connection with the Merger?

A. Approval of the compensation that may be paid or become payable to the Company s named executive officers that is based on or otherwise relates to the Merger is not a condition to completion of the Merger. If

the Merger Agreement is adopted by the Company s stockholders and the Merger is completed, this compensation, including amounts that the Company is contractually obligated to pay, may be paid or become payable regardless of the outcome of the advisory vote.

The compensation that will or may become payable to our named executive officers in connection with the Merger is certain compensation that is tied to or based on the Merger, in whole or in part, and that is or may in the future become payable to certain of our named executive officers. For further detail, see Proposal 3: Advisory Vote on Merger-Related Compensation for the Company s Named Executive Officers.

Q. What vote of stockholders is required to approve the Merger Proposal?

A. Approval of the Merger Proposal requires the affirmative vote of the holders of a majority of the outstanding shares of Common Stock entitled to vote thereon. As a result, if you fail to submit a proxy or vote in person at the Special Meeting, or abstain, or you do not provide your bank, brokerage firm or other nominee with instructions, as applicable, this will have the same effect as a vote against the Merger Proposal.

As of close of business on the Record Date, there were 86,200,470 outstanding shares of Common Stock.

Q. What vote of stockholders is required to approve the Adjournment Proposal?

A. Approval of the Adjournment Proposal requires the affirmative vote of the holders of a majority of the shares of Common Stock present in person or represented by proxy and entitled to vote on the matter at the Special Meeting, whether or not a quorum is present.

Abstaining will have the same effect as a vote against the Adjournment Proposal. If you fail to submit a proxy or to vote in person at the Special Meeting or if your shares of Common Stock are held through a bank, brokerage firm or other nominee and you do not instruct your bank, brokerage firm or other nominee to vote your shares of Common Stock, your shares of Common Stock will not be voted, but this will not have an effect on the Adjournment Proposal.

Q. What vote of stockholders is required to approve the Compensation Proposal?

A. Approval of the Compensation Proposal requires the affirmative vote of holders of a majority of the shares of Common Stock present in person or represented by proxy and entitled to vote on the matter at the Special Meeting.

Accordingly, abstentions will have the same effect as a vote against the Adjournment Proposal, while broker non-votes and shares not in attendance at the Special Meeting will have no effect on the outcome of any vote to approve Compensation Proposal.

Q. Do any of the Company s directors or officers have interests in the Merger that may differ from or be in addition to my interests as a stockholder?

A. Yes. In considering the recommendation of the Board of Directors, you should be aware that our directors and executive officers have interests in the Merger that may be different from, or in addition to, yours. The Board of Directors was aware of and considered these interests, among other matters, in evaluating the Merger and in recommending that the Merger Agreement be adopted by the stockholders of the Company. For more information see The Merger Interests of Directors and Executive Officers in the Merger and Proposal 3: Advisory Vote on Merger-Related Compensation for the Company s Named Executive Officers.

Q. What is the difference between holding shares as a stockholder of record and as a beneficial owner?

A. If your shares are registered directly in your name with our transfer agent, Broadridge Corporate Solutions, Inc., you are considered the stockholder of record with respect to those shares. As the stockholder of record,

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you have the right to vote, grant your voting directly to the Company or to a third party or to vote in person at the meeting.

If your shares are held by a bank, broker, trustee or nominee, you are considered the beneficial owner of shares held in street name, and your bank or broker is considered the stockholder of record with respect to those shares. Your bank, broker, trustee or nominee will send you, as the beneficial owner, a package describing the procedure for voting your shares. You should follow the instructions provided by them to vote your shares. You are invited to attend the Special Meeting; however, you may not vote these shares in person at the meeting unless you obtain a legal proxy from your bank, broker, trustee or nominee that holds your shares, giving you the right to vote the shares at the meeting.

Q. If my shares of Common Stock are held in street name by my bank, brokerage firm or other nominee, will my bank, brokerage firm or other nominee vote my shares of Common Stock for me?

A. Your bank, brokerage firm or other nominee will only be permitted to vote your shares if you instruct your bank, brokerage firm or other nominee how to vote. You should follow the procedures provided by your bank, brokerage firm or other nominee regarding the voting of your shares. Under the rules of NASDAQ, banks, brokerage firms or other nominees who hold shares in street name for customers have the authority to vote on routine proposals when they have not received instructions from beneficial owners. However, banks, brokerage firms and other nominees are precluded from exercising their voting discretion with respect to approving non-routine matters, such as the Merger Proposal, and, as a result, absent specific instructions from the beneficial owner of such shares, banks, brokerage firms or other nominees are not empowered to vote those shares on non-routine matters. If you do not instruct your bank, brokerage firm or other nominee to vote your shares of Common Stock, your shares will not be voted (broker non-votes) and the effect will be the same as a vote against approval of the Merger Proposal, and your shares will not have an effect on the Adjournment Proposal or on the Compensation Proposal.

Q. Who can vote at the Special Meeting?

A. All holders of record of Common Stock as of the close of business on December 21, 2017, the Record Date, are entitled to vote at the Special Meeting.

Q. How many votes do I have?

A. On each matter properly brought before the Special Meeting, you are entitled to one vote for each share of Common Stock held of record as of the Record Date. As of close of business on the Record Date, there were 86,200,470 outstanding shares of Common Stock.

Q. What is a quorum?

A.

The presence at the Special Meeting, in person or represented by proxy, of the holders of a majority of the Common Stock issued and outstanding and entitled to vote on the Record Date will constitute a quorum, permitting the conduct of business at the Special Meeting. Abstentions and broker non-votes are counted as present for the purpose of determining whether a quorum is present.

Q. How do I vote?

A. *Stockholder of Record*. If you are a stockholder of record, you may have your shares of Common Stock voted on matters presented at the Special Meeting in any of the following ways:

- by proxy;

- by telephone or over the Internet, by accessing the telephone number or website specified on the enclosed proxy card. The control number provided on your proxy card is designed to verify your

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identity when voting by telephone or by Internet. Please be aware that if you vote by telephone or over the Internet, you may incur costs such as telephone and Internet access charges for which you will be responsible;

by signing, dating and returning the enclosed proxy card in the accompanying prepaid reply envelope; or

in person you may attend the Special Meeting and cast your vote there.

Beneficial Owner. If you are a beneficial owner, please refer to the instructions provided by your bank, brokerage firm or other nominee to see which of the above choices are available to you. Please note that if you are a beneficial owner and wish to vote in person at the Special Meeting, you must provide a legal proxy from your bank, brokerage firm or other nominee at the Special Meeting.

Q. How can I change or revoke my vote?

A. You have the right to revoke a proxy before it is voted by submitting a new proxy card with a later date or subsequently voting via telephone or the Internet. Record holders may also revoke their proxies by voting in person at the Special Meeting or by notifying the Company s Secretary in writing at: Bazaarvoice, Inc., Attention: Secretary, 10901 Stonelake Boulevard, Austin, Texas 78759.

Q. What is a proxy?

A. A proxy is your legal designation of another person, referred to as a proxy, to vote your shares. The written document describing the matters to be considered and voted on at the Special Meeting is called a proxy statement. The document used to designate a proxy to vote your shares is called a proxy card.

Q. If a stockholder gives a proxy, how are the shares of Common Stock voted?

A. Regardless of the method you choose to vote, the individuals named on the enclosed proxy card will vote your shares in the way that you indicate. When completing the Internet or telephone processes or the proxy card, you may specify whether your shares should be voted for or against or to abstain from voting on all, some or none of the specific items of business to come before the Special Meeting.

If you properly sign your proxy card but do not mark the boxes showing how your shares should be voted on a matter, the shares represented by your properly signed proxy will be voted FOR approval of the Merger Proposal, FOR approval of the Adjournment Proposal and FOR approval of the Compensation Proposal.

Q. How are votes counted?

A. For the Merger Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**. Abstentions and broker non-votes will have the same effect as votes against the Merger Proposal.

For the Adjournment Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**. Abstentions will have the same effect as if you voted against the Adjournment proposal, but broker non-votes will not have an effect on the proposal.

For the Compensation Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**. Abstentions will have the same effect as if you voted against the Compensation Proposal, but broker non-votes will not have an effect on the proposal.

Q. What do I do if I receive more than one proxy or set of voting instructions?

A. If you hold shares of Common Stock in street name and also directly as a record holder or otherwise, you may receive more than one proxy and/or set of voting instructions relating to the Special Meeting. Please vote each proxy or voting instruction card in accordance with the instructions provided in this proxy statement in order to ensure that all of your shares are voted.

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Q. What happens if I sell my shares of Common Stock after the Record Date but before the Special Meeting?

A. The Record Date for stockholders entitled to vote at the Special Meeting is earlier than both the date of the Special Meeting and the consummation of the Merger. If you transfer your shares of Common Stock after the Record Date but before the Special Meeting, unless special arrangements (such as provision of a proxy) are made between you and the person to whom you transfer your shares and each of you notifies the Company in writing of such special arrangements, you will retain your right to vote such shares at the Special Meeting but will transfer the right to receive the Per Share Merger Consideration to the person to whom you transfer your shares.

Q. What happens if I sell my shares of Common Stock after the Special Meeting but before the Effective Time?

A. If you transfer your shares of Common Stock after the Special Meeting but before the Effective Time, you will have transferred the right to receive the Per Share Merger Consideration to the person to whom you transfer your shares. In order to receive the Per Share Merger Consideration, you must hold your shares of Common Stock through completion of the Merger.

Q. Who will solicit and pay the cost of soliciting proxies?

A. The Company has engaged D.F. King & Co., Inc. (D.F. King) to assist in the solicitation of proxies for the Special Meeting. The Company estimates that it will pay D.F. King a fee of $12,500. The Company has also agreed to reimburse D.F. King for, pay directly, or, where requested in special situations, advance sufficient funds for the payment of, certain fees, costs and expenses and will also indemnify D.F. King, its affiliates and their respective stockholders, officers, directors, employees, agents and other representatives and controlling persons against certain losses, claims, damages, liabilities and expenses. The Company may also reimburse banks, brokers or their agents for certain expenses in forwarding proxy materials to beneficial owners of Common Stock. Our directors, officers and employees may also solicit proxies by telephone, by facsimile, by mail, on the Internet or in person. They will not be paid any additional amounts for soliciting proxies.

Q. What do I need to do now?

A. Even if you plan to attend the Special Meeting, after carefully reading and considering the information contained in this proxy statement, **please vote promptly to ensure that your shares are represented at the Special Meeting**. If you hold shares of Common Stock in your own name as the stockholder of record, you may submit a proxy to have your shares voted at the Special Meeting in one of three ways: (i) completing, signing, dating and returning the enclosed proxy card in the accompanying prepaid reply envelope; (ii) calling toll-free at the telephone number indicated on the enclosed proxy card; or (iii) using the Internet in accordance with the instructions set forth on the enclosed proxy card. If you decide to attend the Special Meeting and vote in person, your vote by ballot will revoke any proxy previously submitted. If you are a beneficial owner, please refer to the instructions provided by your bank, brokerage firm or other nominee to see which of the above choices are available to you.

Q. Should I send in my stock certificates now?

A. No. If the Merger Proposal is approved, you will be sent a letter of transmittal after the completion of the Merger describing how you may exchange your shares of Common Stock for the Per Share Merger Consideration. If your shares of Common Stock are held in street name through a bank, brokerage firm or other nominee, you will receive instructions from your bank, brokerage firm or other nominee as to how to effect the surrender of your street name shares of Common Stock in exchange for the Per Share Merger Consideration. Please do NOT return your stock certificate(s) with your proxy.

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Q. Am I entitled to exercise appraisal rights under the DGCL instead of receiving the Per Share Merger Consideration for my shares of Common Stock?

A. Yes. As a holder of Common Stock, you are entitled to exercise appraisal rights under the DGCL in connection with the Merger if you take certain actions and meet certain conditions, including that you do not vote (in person or by proxy) in favor of adoption of the Merger Agreement. See Appraisal Rights beginning on page 98. For the full text of Section 262 of the DGCL, please see **Annex B** hereto.

Q. What is householding and how does it affect me?

A. The SEC permits companies to send a single set of certain disclosure documents to any household at which two or more stockholders reside, unless contrary instructions have been received, but only if the company provides advance notice and follows certain procedures. In such cases, each stockholder continues to receive a separate notice of the meeting and proxy card. This householding process reduces the volume of duplicate information and reduces printing and mailing expenses. We have not instituted householding for stockholders of record; however, certain brokerage firms may have instituted householding for beneficial owners of Common Stock held through brokerage firms. If your family has multiple accounts holding Common Stock, you may have already received householding notification from your broker. Please contact your broker directly if you have any questions or require additional copies of this proxy statement. The broker will arrange for delivery of a separate copy of this proxy statement promptly upon your written or oral request. You may decide at any time to revoke your decision to household, and thereby receive multiple copies.

Q. Who can help answer any other questions I might have?

A. If you have additional questions about the Merger, need assistance in submitting your proxy or voting your shares, or need additional copies of the proxy statement or the enclosed proxy card, please contact D.F. King, our proxy solicitor, by calling toll-free at (888) 542-7446 or via email at bv@dfking.com.

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CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This proxy statement, and the documents to which we refer you in this proxy statement, as well as oral statements made or to be made by us, contain assumptions, expectations, projections, intentions or beliefs about future events that are intended to be forward-looking statements. All statements included or incorporated by reference in this proxy statement, other than statements that are historical facts, are forward-looking statements. The words believe, expect, should and similar expressions are intended to identify forward-looking statements. Forward-looking statements are estimates and projections reflecting management s reasonable judgment based on currently available information and using numerous assumptions and involve a number of risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. These risks and uncertainties include, but are not limited to, all statements relating directly or indirectly to the timing or likelihood of completing the Merger, plans for future growth, changes in the business and other business development activities as well as capital expenditures, financing sources and the effects of regulation and competition and all other statements regarding our intent, plans, beliefs or expectations or those of our directors or officers. These risks and uncertainties include, but are not limited to, the risks detailed in our filings with the SEC, including our most recent filing on Forms 10-K and 10-Q, factors and matters contained or incorporated by reference in this document, and the following factors:

- the occurrence of any event, change or other circumstances that could give rise to the termination of the Merger Agreement, including a termination of the Merger Agreement under circumstances that could require us to pay a termination fee;

- the failure of Parent to obtain the necessary Equity Financing set forth in the Equity Commitment Letter received in connection with the Merger Agreement or the failure of that financing to be sufficient to complete the Merger and the transactions contemplated thereby;

- the failure of any of the parties to the transactions contemplated by the Merger Agreement to obtain the necessary Debt Financing set forth in the Debt Commitment Letter received in connection with the Merger Agreement or the failure of that financing to be sufficient to complete the Merger and the transactions contemplated thereby;

- the risk that the Merger Agreement may be terminated in circumstances that require us to pay Parent a termination fee of $18.27 million;

- the inability to complete the Merger due to the failure to obtain stockholder approval or the failure to satisfy other conditions to completion of the Merger, including receipt of required regulatory approvals from various domestic and foreign governmental entities;

- the failure of the Merger to close for any other reason;

the fact that receipt of the all-cash Per Share Merger Consideration would be taxable to stockholders that are treated as U.S. holders for U.S. federal income tax purposes;

the outcome of any legal proceedings that may be instituted against the Company and/or others relating to the Merger Agreement;

risks that the proposed transaction disrupts current plans and operations and the potential difficulties in retention of executive management and other key employees as a result of the Merger;

diversion of management s attention from ongoing business concerns;

limitations placed on our ability to operate the business by the Merger Agreement;

the effect of the announcement of the Merger on our business relationships, operating results and business generally; and

the amount of any costs, fees, expenses, impairments and charges related to the Merger.

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The Company believes these forward-looking statements are reasonable; however, you should not place undue reliance on forward-looking statements, which are based on current expectations and speak only as of the date of this report. Any or all of the Company s forward-looking statements may turn out to be wrong. They can be affected by inaccurate assumptions or by known or unknown risks, uncertainties and other factors, many of which are beyond the Company s control.

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PARTIES TO THE MERGER

The Company

Bazaarvoice, Inc.

10901 Stonelake Boulevard

Austin, Texas 78759

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

For more information about the Company, please visit our website at www.bazaarvoice.com. Our website address is provided as an inactive textual reference only. The information contained on our website is not incorporated into, and does not form a part of, this proxy statement or any other report or document on file with or furnished to the SEC. For more information see Where You Can Find More Information.

The Company s Common Stock is listed on NASDAQ under the symbol BV.

Parent

BV Parent, LLC

c/o Marlin Equity Partners

338 Pier Avenue

Hermosa Beach, CA 90254

Parent was formed on November 22, 2017, solely for the purpose of engaging in the transactions contemplated by the Merger Agreement and, as of the date of this proxy statement, has not engaged in any business activities other than those incidental to its formation and in connection with the transactions contemplated by the Merger Agreement and arranging of the Equity Financing and Debt Financing in connection with the Merger.

Merger Sub

BV Merger Sub, Inc.

c/o Marlin Equity Partners

338 Pier Avenue

Hermosa Beach, CA 90254

Merger Sub is a wholly owned direct subsidiary of Parent and was formed on November 22, 2017, solely for the purpose of engaging in the transactions contemplated by the Merger Agreement and, as of the date of this proxy statement, has not engaged in any business activities other than those incidental to its formation and in connection with the transactions contemplated by the Merger Agreement and arranging of the Equity Financing and Debt Financing in connection with the Merger.

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Parent and Merger Sub are affiliated with Marlin Equity. In connection with the transactions contemplated by the Merger Agreement, Marlin Equity has provided to Parent equity commitments of up to $235 million.

Marlin Equity Partners, which is affiliated with Marlin Equity, is a global investment firm with over $6.7 billion of capital under management.

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THE SPECIAL MEETING

Time, Place and Purpose of the Special Meeting

This proxy statement is being furnished to our stockholders as part of the solicitation of proxies for use at the Special Meeting to be held on January 29, 2018 at 8:30 a.m. CST, at 401 Congress Avenue, Suite 2500, Austin, Texas 78701, or at any postponement or adjournment thereof. At the Special Meeting, holders of Common Stock will be asked to approve the Merger Proposal, to approve the Adjournment Proposal and to approve the Compensation Proposal.

Our stockholders must approve the Merger Proposal in order for the Merger to occur. If our stockholders fail to approve the Merger Proposal, the Merger will not occur. A copy of the Merger Agreement is attached as **Annex A** to this proxy statement, which we encourage you to read carefully and in its entirety.

Record Date and Quorum

We have fixed the close of business on December 21, 2017 as the Record Date for the Special Meeting, and only holders of record of Common Stock on the Record Date are entitled to receive notice of, and to vote at, the Special Meeting. On the Record Date, there were 86,200,470 shares of Common Stock outstanding and entitled to vote. On all matters properly coming before the Special Meeting, you will have one vote for each share of Common Stock that you owned on the Record Date.

The presence at the Special Meeting, in person or represented by proxy, of the holders of a majority of the Common Stock issued and outstanding and entitled to vote on the Record Date will constitute a quorum, permitting the conduct of business at the Special Meeting. Shares of Common Stock represented at the Special Meeting but not voted, including shares of Common Stock for which a stockholder directs an abstention from voting, will be counted for purposes of establishing a quorum. Broker non-votes will also be counted for purposes of establishing a quorum. A quorum is necessary to transact business at the Special Meeting. Once a share is represented at the Special Meeting, it will be counted for the purpose of determining a quorum at the Special Meeting and any adjournment of the Special Meeting. In the event that a quorum is not present at the Special Meeting, it is expected that the Special Meeting will be adjourned, postponed or delayed. If we adjourn, postpone or delay the Special Meeting for more than 30 days, or if thereafter a new Record Date is set, a notice of the adjourned, postponed or delayed meeting will be given to each stockholder of record entitled to vote at the Special Meeting in accordance with our bylaws.

Attendance

Only stockholders of record, their duly authorized proxy holders, beneficial stockholders with proof of ownership and the Company s invitees may attend the Special Meeting. To gain admittance, you must present valid photo identification, such as a driver s license or passport. If your shares of Common Stock are held through a bank, brokerage firm or other nominee, please bring to the Special Meeting a copy of your brokerage statement evidencing your beneficial ownership of the Common Stock and valid photo identification. If you are the representative of a corporate or institutional stockholder, you must present valid photo identification along with proof that you are the representative of such stockholder. **Please note that cameras, recording devices and other electronic devices will not be permitted at the Special Meeting.**

Vote Required

Approval of the Merger Proposal requires the affirmative vote of the holders of a majority of the outstanding shares of Common Stock entitled to vote thereon. For the Merger Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**.

Abstentions, if any, will be included in the calculation of the number of shares of Common Stock represented at the Special Meeting for purposes of determining whether a quorum has been achieved, but will be counted as a vote against the Merger Proposal. **If you fail to submit a proxy or to vote in person at the Special Meeting, or abstain, it will have the same effect as a vote against the Merger Proposal.**

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If your shares of Common Stock are registered directly in your name with our transfer agent, Broadridge Corporate Solutions, Inc., you are considered, with respect to those shares, the stockholder of record. This proxy statement and proxy card have been sent directly to you by the Company.

If your shares of Common Stock are held through a bank, brokerage firm or other nominee, you are considered the beneficial owner of those shares held in street name. In that case, this proxy statement has been forwarded to you by your bank, brokerage firm or other nominee who is considered, with respect to those shares of Common Stock, the stockholder of record. As the beneficial owner, you have the right to direct your bank, brokerage firm or other nominee how to vote your shares by following their instructions for voting.

Under the rules of NASDAQ, banks, brokerage firms or other nominees who hold shares in street name for customers have the authority to vote on routine proposals when they have not received instructions from beneficial owners. However, banks, brokerage firms and other nominees are precluded from exercising their voting discretion with respect to approving non-routine matters such as the Merger Proposal and, as a result, absent specific instructions from the beneficial owner of such shares of Common Stock, banks, brokerage firms or other nominees are not empowered to vote those shares on non-routine matters. **These broker non-votes will be counted for purposes of determining a quorum but will have the same effect as a vote against the Merger Proposal.**

The Adjournment Proposal requires the affirmative vote of the holders of a majority of the shares of Common Stock present in person or represented by proxy and entitled to vote on the matter at the Special Meeting. For the Adjournment Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**. For purposes of this proposal, if your shares of Common Stock are present at the Special Meeting but are not voted on this proposal, or if you have given a proxy and abstained on this proposal, this will have the same effect as if you voted against approval of the proposal. If you fail to submit a proxy or to attend in person the Special Meeting, or there are broker non-votes on the issue, as applicable, the shares of Common Stock held by you or your broker will not be counted in respect of, and will not have an effect on, the Adjournment Proposal.

The Compensation Proposal requires the affirmative vote of the holders of a majority of the shares of Common Stock present in person or represented by proxy and entitled to vote on the matter at the Special Meeting, whether or not a quorum is present. For the Compensation Proposal, you may vote **FOR**, **AGAINST** or **ABSTAIN**. For purposes of this proposal, if your shares of Common Stock are present at the Special Meeting but are not voted on this proposal, or if you have given a proxy and abstained on this proposal, this will have the same effect as if you voted against the proposal. If you fail to submit a proxy or to attend in person the Special Meeting, or there are broker non-votes on the issue, as applicable, the shares of Common Stock held by you or your broker will not be counted in respect of, and will not have an effect on, the Compensation Proposal.

If you are a stockholder of record, you may have your shares of Common Stock voted on matters presented at the Special Meeting in any of the following ways:

- by proxy;

- by telephone or over the Internet, by accessing the telephone number or website specified on the enclosed proxy card. The control number provided on your proxy card is designed to verify your identity when voting by telephone or by Internet. Please be aware that if you vote by telephone or over the Internet, you may incur costs such as telephone and Internet access charges for which you will be responsible;

- by signing, dating and returning the enclosed proxy card in the accompanying prepaid reply envelope; or

- in person you may attend the Special Meeting and cast your vote there.

If you are a beneficial owner, you will receive instructions from your bank, brokerage firm or other nominee that you must follow in order to have your shares of Common Stock voted. Those instructions will identify which of

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the above choices are available to you in order to have your shares voted. Please note that if you are a beneficial owner and wish to vote in person at the Special Meeting, you must provide a legal proxy from your bank, brokerage firm or other nominee at the Special Meeting.

If you vote by proxy, regardless of the method you choose to vote, the individuals named on the enclosed proxy card, and each of them, with full power of substitution, will vote your shares of Common Stock in the way that you indicate. When completing the Internet or telephone processes or the proxy card, you may specify whether your shares of Common Stock should be voted for or against or to abstain from voting on all, some or none of the specific items of business to come before the Special Meeting.

If you properly sign your proxy card but do not mark the boxes showing how your shares of Common Stock should be voted on a matter, the shares of Common Stock represented by your properly signed proxy will be voted **FOR** approval of the Merger Proposal, **FOR** approval of the Adjournment Proposal and **FOR** approval of the Compensation Proposal.

If you have any questions or need assistance voting your shares, please contact D.F. King, our proxy solicitor, by calling toll-free at (888) 542-7446 or via email at bv@dfking.com.

IT IS IMPORTANT THAT YOU VOTE YOUR SHARES OF COMMON STOCK AT THE MEETING PROMPTLY. WHETHER OR NOT YOU PLAN TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, DATE, SIGN AND RETURN, AS PROMPTLY AS POSSIBLE, THE ENCLOSED PROXY CARD IN THE ACCOMPANYING PREPAID REPLY ENVELOPE, OR SUBMIT YOUR PROXY BY TELEPHONE OR THE INTERNET.

Shares Held by the Company s Directors and Executive Officers

As of December 21, 2017, the Record Date, the directors and executive officers of the Company beneficially owned and were entitled to vote, in the aggregate, 4,953,567 shares of Common Stock, representing 5.5 percent of the outstanding shares of Common Stock.

Proxies and Revocation

Any stockholder of record entitled to vote at the Special Meeting may submit a proxy by telephone, over the Internet, by returning the enclosed proxy card in the accompanying prepaid reply envelope, or may vote in person by appearing at the Special Meeting. If your shares of Common Stock are held in street name through a bank, brokerage firm or other nominee, you should instruct your bank, brokerage firm or other nominee on how to vote your shares using the instructions provided by your bank, brokerage firm or other nominee. If you fail to submit a proxy or to vote in person at the Special Meeting, or do not provide your bank, brokerage firm or other nominee with instructions, as applicable, your shares of Common Stock will not be voted on the Merger Proposal which will have the same effect as a vote against the proposal, and your shares will not have an effect on the Adjournment Proposal or the Compensation Proposal.

You have the right to revoke a proxy, whether delivered over the Internet, by telephone or by mail, at any time before it is exercised, by voting again at a later date through any of the methods available to you, by giving written notice of revocation to our Secretary or by attending the Special Meeting and voting in person. Written notice of revocation should be mailed to: Bazaarvoice, Inc., Attention: Corporate Secretary, 10901 Stonelake Boulevard, Austin, Texas 78759.

Adjournments

Although it is not currently expected, if the Adjournment Proposal is approved, the Special Meeting may be adjourned for the purpose of, if necessary and for a minimum period of time reasonable under the circumstances,

to ensure that any necessary supplement or amendment to this proxy statement is provided to Company stockholders a reasonable amount of time in advance of the Special Meeting, or for the purpose of soliciting additional proxies if there are insufficient votes at the time of the Special Meeting to approve the Merger Proposal or if a quorum is not present at the Special Meeting. Any adjournment of the Special Meeting will allow the Company s stockholders who have already sent in their proxies to revoke them at any time prior to their use at the Special Meeting, as adjourned. If we adjourn the Special Meeting for more than 30 days, or if after adjournment a new Record Date is set, a notice of the adjourned meeting will be given to each stockholder of record entitled to vote at the Special Meeting in accordance with our bylaws.

Anticipated Date of Completion of the Merger

We are working toward completing the Merger as soon as possible. Assuming receipt of required regulatory approvals and timely satisfaction of other closing conditions, including the approval by our stockholders of the Merger Proposal, we expect the Merger to be completed no later than the first calendar quarter of 2018. If our stockholders vote to approve the Merger Proposal, the Merger will become effective as promptly as practicable following the satisfaction or waiver of the other conditions to the Merger, subject to the terms of the Merger Agreement. For more information see The Merger Closing and the Effective Time.

Rights of Stockholders Who Seek Appraisal

Stockholders are entitled to appraisal rights under the DGCL in connection with the Merger. This means that you are entitled to have the fair value of your shares of Common Stock determined by the Delaware Court of Chancery and to receive payment based on that valuation in lieu of the Per Share Merger Consideration if you follow exactly the procedures specified under the DGCL. The ultimate amount you receive in an appraisal proceeding may be less than, equal to or more than the amount you would have received under the Merger Agreement.

To exercise your appraisal rights, you must submit a written demand for appraisal to the Company before the vote is taken on the Merger Agreement and you must not vote (either in person or by proxy) in favor of the Merger Proposal. Your failure to follow exactly the procedures specified under the DGCL may result in the loss of your appraisal rights. See Appraisal Rights beginning on page 98 and the text of the Delaware appraisal rights statute reproduced in its entirety as **Annex B** to this proxy statement. If you hold your shares of Common Stock through a bank, brokerage firm or other nominee and you wish to exercise appraisal rights, you should consult with your bank, brokerage firm or other nominee to determine the appropriate procedures for the making of a demand for appraisal by your bank, brokerage firm or other nominee. In view of the complexity of the DGCL, stockholders who may wish to pursue appraisal rights should consult their legal and financial advisors promptly.

Solicitation of Proxies; Payment of Solicitation Expenses

The Company has engaged D.F. King to assist in the solicitation of proxies for the Special Meeting. The Company estimates that it will pay D.F. King a fee of $12,500. The Company has also agreed to reimburse D.F. King for, pay directly, or, where requested in special situations, advance sufficient funds for the payment of, certain fees, costs and expenses and will also indemnify D.F. King, its affiliates and their respective officers, directors, employees, agents and other representatives and controlling persons against certain losses, claims, damages, liabilities and expenses. The Company is soliciting proxies for the Special Meeting and will bear the costs and expenses of such solicitation. The Company may also reimburse banks, brokers or their agents for certain expenses in forwarding proxy materials to beneficial owners of Common Stock. Our directors, officers and employees may also solicit proxies by telephone, by facsimile, by mail, on the Internet or in person. They will not be paid any additional amounts for soliciting proxies.

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Questions and Additional Information

If you have more questions about the Merger or how to submit your proxy, or if you need additional copies of this proxy statement or the enclosed proxy card or voting instructions, please contact D.F. King, our proxy solicitor, by calling toll-free at (888) 542-7446 or via email at bv@dfking.com.

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THE MERGER

This discussion of the Merger is qualified in its entirety by reference to the Merger Agreement, which is attached to this proxy statement as **Annex A**. *You should read the entire Merger Agreement carefully as it is the legal document that governs the Merger.*

Upon the terms and subject to the conditions of the Merger Agreement, if the Merger is completed, Merger Sub will merge with and into the Company. The Company will be the Surviving Corporation in the Merger and will continue to exist following the Merger. As a result of the Merger, the Company will cease to be a publicly traded company. You will not own any shares of the capital stock of the Surviving Corporation.

The Effective Time will occur upon the filing of the certificate of merger with the Secretary of State of the State of Delaware (or at such later time as we and Parent may agree and specify in the certificate of merger).

Per Share Merger Consideration

In the Merger, each outstanding share of Common Stock (other than Excluded Shares) will be converted into the right to receive the Per Share Merger Consideration of $5.50, without interest thereon, less any applicable withholding taxes. After the Merger is completed, you will have the right to receive the Per Share Merger Consideration, but you will no longer have any rights as a stockholder (except that stockholders who properly exercise their appraisal rights will have the right to receive a payment for the fair value of their shares as determined pursuant to an appraisal proceeding as contemplated by the DGCL, as described below under the caption Appraisal Rights).

Background of the Merger

The Board of Directors and senior management regularly review the Company s business, operations, financial performance and strategic direction. As part of this evaluation, the Board of Directors considers the Company s long-term strategies and plans, changes in the industry and markets in which the Company operates, execution opportunities and risks and other considerations. Over the past several years, the Company has affected many changes to its business intended to expand its product and service offerings and to improve operating and financial performance.

At various times over the past several years, the Company has entered into preliminary discussions with third parties to explore potential partnerships and other relationships and transactions, including potential business combinations. During 2015, the Board of Directors engaged a financial advisor to facilitate a review by the Board of Directors of strategic alternatives and directed the advisor to contact third parties about a potential combination. None of the contacted parties submitted an indication of interest in a business combination at that time.

Over the same period, the Board of Directors and senior management regularly communicated and engaged with the Company s stockholders to understand their perspectives. Two stockholders filed Schedules 13D with the SEC on July 5, 2016 and March 13, 2017, respectively. On August 23, 2016, the Board of Directors, after evaluating potential advisors, determined to engage GCA Advisors to assist the Company with respect to its stockholder communications and engagement and related matters.

On March 3, 2016, members of senior management met with representatives from a financial sponsor (Sponsor A) that had requested the opportunity to discuss its business and its interest in the Company.

On April 5, 2017, at their request, representatives from Sponsor A made a presentation to members of senior management at the Company s headquarters regarding Sponsor A s interest in a potential acquisition of the Company.

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On April 10, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper LLP (US) (DLA Piper), outside counsel to the Company. Management provided its preliminary outlook for the fourth quarter fiscal 2017 financial results and discussed with the Board of Directors the Company s strategic plan and its financial plan for fiscal year 2018. In light of the Company s performance and uncertain revenue growth, the Board of Directors directed management to present for the Board of Director s consideration fiscal 2018 and long-term financial plans that increased the focus on expense reduction and increased profitability. The Board of Directors then discussed with GCA Advisors and DLA Piper a consideration of strategic alternatives. The representatives of GCA Advisors then left the meeting. After further discussion, the Board of Directors authorized Tom Meredith and Jeffrey Hawn, both independent directors, to serve as representatives of the full Board of Directors to review and evaluate with management potential financial advisors in connection with a consideration of strategic alternatives and thereafter make recommendations to the full Board of Directors.

On April 19, 2017, the Company received an unsolicited indication of interest from Sponsor A to acquire the Company for $5.50 per share.

On April 20, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. GCA Advisors reviewed the unsolicited indication of interest with the Board of Directors, a copy of which had been provided to the Board of Directors in advance of the meeting. The representatives of GCA Advisors then left the meeting. The Board of Directors determined to expand the scope of GCA Advisors engagement to provide financial analysis to better inform the Board of Directors during its consideration of the offer pursuant to an engagement letter, copies of which had been provided to the Board of Directors in advance of the meeting. The Board of Directors designated Messrs. Meredith and Hawn to finalize the terms of the GCA Advisors engagement in connection with such analysis. The Board of Directors did not determine at such time to engage GCA Advisors or other financial advisor to undertake a process to sell the Company. The Board of Directors also directed management to continue its financial planning consistent with their prior discussions.

On May 1, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. Management reviewed its preliminary outlook for the fourth quarter fiscal 2017 financial results and presented fiscal 2018 and long-term financial plans, based on materials provided to the Board of Directors in advance of the meeting, and related risks and assumptions. The Board of Directors discussed with management the standalone strategic and financial plans of the Company, and after review and discussion, the Board of Directors approved the fiscal 2018 and long-term financial plans. Management noted that GCA Advisors would be prepared at the next meeting to discuss with the Board of Directors preliminary perspectives on the Company s valuation.

On May 5, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. GCA Advisors reviewed again the unsolicited indication of interest received on April 19, 2017 from Sponsor A. GCA Advisors and the Board of Directors also discussed the Company s historical stock price performance and preliminary perspectives on the Company s valuation, public investor concerns and market perceptions about the Company and key opportunities and risks in the Company s business and the markets in which it operates.

On May 31, 2017, the Board of Directors held a regularly scheduled meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. Representatives of GCA Advisors and the Board of Directors discussed potential strategic alternatives available to the Company, including a potential sale of the Company, as well as preliminary valuation perspectives and scenarios based on the Company s financial performance and the long-term financial plan previously approved by the Board of Directors. Representatives of GCA Advisors

and the Board of Directors then discussed considerations around a potential sale of the Company, including a discussion of potential financial and strategic acquirers and their ability to acquire the Company.

On June 1, 2017, the Board of Directors continued its regularly scheduled meeting attended by certain members of senior management and representatives of DLA Piper. The Board of Directors discussed further with management preliminary valuation perspectives on the Company and the exploration of strategic alternatives. The Board of Directors discussed the relative benefits and risks of the various alternatives, including continuing as a standalone public company. The Board of Directors also discussed different approaches to exploring a possible sale of the Company and a preliminary list of financial and strategic acquirers that would potentially consider entering into a transaction with the Company. A representative of DLA Piper reviewed with the Board of Directors and senior management their fiduciary duties and related considerations.

After further discussion, the Board of Directors determined it to be in the best interest of the Company and its stockholders to take further steps to explore the potential interest of third parties to acquire the Company. After a review of the Company s investment banking relationships, the Board of Directors determined to further expand the scope of GCA Advisors engagement in connection with such process and designated Messrs. Meredith and Hawn, both disinterested, independent directors, to finalize negotiations with GCA Advisors on the terms of their engagement and to oversee day-to-day activities of GCA Advisors and management.

On June 20, 2017, a representative of GCA Advisors had a telephone call with Sponsor A to review its unsolicited indication of interest and to inform Sponsor A of the Board of Director s decision to undertake a sale process.

At the direction of the Board of Directors, from June 4, 2017 through August 28, 2017, representatives of GCA Advisors contacted 14 strategic parties and nine financial sponsors to assess their interest in exploring a transaction with the Company. Of these parties, five potential strategic acquirers and six potential financial acquirers expressed an interest in such discussions and entered into confidentiality agreements with standstill provisions (10 of which included don t ask, don t waive restrictions). The Company held management presentations for all 11 potential acquirers that entered into confidentiality agreements.

On July 10, 2017, Viex Capital Advisors, LLC and certain of its affiliates (collectively, Viex), a Company stockholder, delivered a letter notifying the Company of its intent to nominate two candidates for the Board of Directors at the Company s annual meeting and submitting a non-binding proposal to declassify the Board of Directors.

On July 21, 2017, GCA Advisors delivered bid letters on behalf of the Company to the 11 potential acquirers which outlined the procedures and guidelines for submitting preliminary, non-binding indications of interest for a potential transaction. A deadline for submitting preliminary bids was set for August 9, 2017, at 5:00 p.m. Eastern time.

On July 27, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper to review and discuss the Company s sale process, including a review of the potential acquirers and the status of diligence activities. Management also reviewed proposed corrections to its long-term financial plan, based on materials provided to the Board of Directors in advance of the meeting. After review and discussion, the Board of Directors approved the corrected long-term financial plan. Following the meeting, GCA Advisors delivered the corrected long-term financial plan (the July Plan) to all potential acquirers that entered into confidentiality agreements.

On August 9, 2017, Sponsor A submitted a preliminary, non-binding indication of interest to acquire all outstanding shares of Common Stock for $5.50 per share. No other potential acquirer submitted an indication of interest by the deadline.

On August 14, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper to review and discuss the sale process and the indication of interest submitted by Sponsor A, copies of which had been provided to the Board of Directors in

advance of the meeting. GCA Advisors reported that a second financial sponsor (Sponsor B) had indicated that it was considering submitting an indication of interest. Representatives of GCA Advisors reviewed with the Board of Directors the feedback from parties that had declined to bid for the Company. The Board of Directors discussed the indication of interest submitted by Sponsor A, its diligence activities and knowledge of the Company and its ability to consummate a transaction. The Board of Directors authorized GCA Advisors, in coordination with management, to continue discussions with Sponsor A regarding its preliminary indication of interest.

On August 16, 2017, a representative of GCA Advisors held a teleconference with Sponsor A to review its preliminary indication of interest and its remaining diligence requirements.

On August 17, 2017, Sponsor B submitted a preliminary, non-binding indication of interest to acquire all outstanding shares of Common Stock for $4.90 per share.

On August 17, 2017, GCA Advisors informed Sponsor A and Sponsor B that a deadline for submitting final proposals had been set for September 12, 2017, at 5:00 p.m. Eastern Time.

On August 28, 2017, Marlin Equity contacted Jim Offerdahl, the Company s Chief Financial Officer, and expressed an interest in participating in the sale process. On the same day, a representative of GCA Advisors, at the request of the Company, spoke to Marlin Equity regarding the status of the sale process and the Company s intent to solicit updated offers on September 12, 2017.

On August 30, 2017, Marlin Equity entered into a confidentiality agreement with the Company and was granted access to diligence materials.

On August 31, 2017, the Board of Directors held a regularly scheduled meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. At the meeting, management reviewed with the Board of Directors the Company s financial and operating performance for the first fiscal quarter of 2018. The representatives of GCA Advisors also updated the Board of Directors, based on materials provided to the Board of Directors in advance of the meeting, on the status of the sale process and the indications of interest received to date, and the Board of Directors discussed the proposals with the members of senior management and representatives of GCA Advisors and DLA Piper. Following discussion, the Board of Directors determined to continue discussions with Sponsor A, Sponsor B and Marlin Equity regarding a potential transaction.

From August 21, 2017 until September 11, 2017, the Company conducted telephonic and in-person management presentations and shared diligence materials with Sponsor A and Sponsor B, and from August 30, 2017 until September 11, 2017, the Company conducted telephonic and in-person management presentations and shared diligence materials with Marlin Equity.

On September 5, 2017, representatives of Marlin Equity conducted in-person diligence meetings with the Company in Austin, Texas.

On September 12, 2017, Sponsor A notified GCA Advisors that, while it remained interested in continuing in the sale process, Sponsor A could no longer support a price of $5.50 per share and would not be submitting a revised indication of interest at such time.

On the same day, Marlin submitted a preliminary indication of interest for an all-cash acquisition of all outstanding shares of Common Stock for $5.75 per share.

On September 13, 2017, Sponsor B notified GCA Advisors that Sponsor B was no longer interested in participating in the sale process and that it did not intend to submit a revised offer.

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On September 14, 2017, representatives of GCA Advisors and management held a teleconference with Marlin Equity during which Marlin Equity indicated its intent to move expeditiously to conduct due diligence and to provide a comprehensive proposal to acquire the Company including related financing commitment letters.

Between September 14, 2017 and September 28, 2017, the Company continued to conduct telephonic and in-person management presentations and shared diligence materials with Marlin Equity and its potential financing partners.

On September 25, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper to discuss the sales process. Representatives of GCA Advisors and management provided an update on the efforts since the last meeting and reviewed the indication of interest received from Marlin Equity, copies of which had been provided to the Board of Directors in advance of the meeting, and the status of Marlin Equity s diligence activities.

On September 27, 2017, the Company entered into a settlement agreement with Viex agreeing to, among other things, reduce the size of the Board of Directors to seven directors and appoint Craig Barbarosh to the Board of Directors as an independent director.

On the same day, representatives of Marlin Equity conducted in-person diligence meetings with the Company in Austin, Texas.

On September 28, 2017, the Company received from Marlin Equity a revised indication of interest offering $5.50 per share of Common Stock. The indication included preliminary comments to the Merger Agreement and draft financing commitment letters. The terms of the offer were silent on certain material terms including Marlin Equity s proposed treatment of unvested equity awards. Marlin Equity conveyed orally to GCA Advisors that management continuity was important to its offer, although no specific terms of continued employment were discussed. The offer indicated that Marlin Equity believed that it would be in a position to sign a definitive agreement with fully committed financing within two weeks and sought exclusivity during such period.

On October 2, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. The Board of Directors discussed with GCA Advisors and DLA the terms of Marlin Equity s revised indication of interest and related materials, copies of which had been provided to the Board of Directors in advance of the meeting. The representatives of GCA Advisors then left the meeting.

The Board of Directors continued its discussion of Marlin Equity s offer. After such discussion, the Board of Directors determined to continue discussions with Marlin Equity on a non-exclusive basis to seek to improve the offer and gain greater clarity and certainty regarding its terms.

The Board of Directors and management also discussed the Company s recent and projected operating performance, risks and uncertainties in the Company s business and its markets and the Company s standalone strategic plan and its long-term financial plan. After such discussion, the Board of Directors instructed management to prepare for consideration by the Board of Directors a revised standalone long-term financial plan with a greater focus on profitability.

On October 5, 2017, a representative of GCA Advisors held a teleconference with Sponsor A to explore whether Sponsor A would re-engage in the sale process. Sponsor A reaffirmed its interest in continuing discussions with the Company, but at a price not greater than $5.25 per share.

On October 6, 2017, representatives of GCA Advisors held a teleconference with Marlin Equity to communicate the Board of Director s willingness to continue discussions on a non-exclusive basis, to better understand the terms of Marlin Equity s offer and to explore Marlin Equity s willingness to improve its offer. The representatives of GCA Advisors also provided Marlin with a list of issues prepared by DLA Piper related to the transaction documents.

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On October 9, 2017, Marlin Equity held a teleconference with GCA Advisors to communicate that Marlin Equity would not increase its offer of $5.50 per share. Marlin Equity also indicated that it would require a rollover of unvested equity awards held by certain members of senior management in order to increase the likelihood of management continuity.

On October 12, 2017, representatives of GCA Advisors held a teleconference with Marlin Equity to review Marlin Equity s offer and to explore its insistence on, and the terms of, an equity rollover.

On October 16, 2017, representatives of GCA Advisors held a teleconference with Marlin Equity, during which Marlin Equity reiterated its price of $5.50 per share and explained Marlin Equity s proposed treatment of unvested equity awards. The representatives of GCA Advisors communicated concerns that Marlin Equity s proposed rollover of unvested equity awards created uncertainties and complexities in the transaction. Marlin Equity reiterated the importance to Marlin Equity of management continuity and its requirement that a portion of unvested equity awards held by management be rolled over in order to increase the likelihood of such continuity.

On October 18, 2017, Marlin Equity delivered a revised written indication of interest. The indication included revised comments to the Merger Agreement and the previously provided draft financing commitment letters. The indication reiterated its previously offered price of $5.50 per share and also addressed terms left open in the September 28th indication of interest, including the treatment of unvested equity incentive awards. The offer indicated that Marlin Equity believed that it would be in a position to sign a definitive agreement with fully committed financing within two weeks and sought exclusivity during such period.

On October 23, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. Management reviewed with the Board of Directors, based on materials provided to the Board of Directors in advance of the meeting, the revised long-term financial plan that the Board had previously instructed management to prepare and provided management s preliminary outlook for the second fiscal quarter financial results. After discussion and review, the Board of Directors approved the revised long-term financial plan.

The representatives of GCA Advisors updated the Board of Directors on the discussions and process with Marlin Equity and reviewed with the Board of Directors the updated terms of Marlin Equity s offer, copies of which had been provided to the Board of Directors in advance of the meeting. The Board of Directors discussed Marlin Equity s offer, including Marlin Equity s proposed treatment of unvested equity awards.

DLA Piper discussed with the Board of Directors the revised comments to the Merger Agreement and related items. Representatives of GCA Advisors and the Board of Directors discussed the Company s valuation in light of the revised long-term financial plan and discussed Marlin Equity s insistence on exclusivity to continue discussions. After discussion, the Board of Directors determined to continue negotiations with Marlin Equity and authorized management to enter into the proposed exclusivity agreement. Following the meeting, GCA Advisors delivered the revised long-term financial plan (the October Plan) to Marlin Equity.

During the week of October 23, 2017, representatives of Marlin Equity conducted additional in-person diligence meetings with the Company in Austin, Texas. Thereafter, additional telephonic diligence meetings and presentations were held with the Company through November 26, 2017.

On October 27, 2017, Marlin Equity and the Company entered into the exclusivity agreement.

Between October 19, 2017 and November 26, 2017, representatives of DLA Piper and the Company and Marlin Equity engaged in active negotiations regarding the terms of the Merger Agreement and other transaction documents.

On November 10, 2017, at the direction of the Board of Directors, the Company extended the exclusivity period to November 17, 2017 during which time Marlin Equity continued its diligence activities and the parties continued negotiations of the Merger Agreement and other transaction documents.

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On November 17, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. Management reviewed with the Board of Directors the Company s financial and operating performance for the second fiscal quarter of 2018. The representatives of GCA Advisors updated the Board of Directors on the status of Marlin Equity s diligence activities and the negotiations of transaction terms. The representatives of GCA Advisors then left the meeting. A representative of DLA Piper reviewed with the Board of Directors the status of negotiations with respect to the Merger Agreement and other transaction documents. Management, including Mr. Austin, then left the meeting. The disinterested, independent directors then met in executive session to discuss the terms of the proposed transaction and status of negotiations. Following such discussion, the independent directors determined to continue negotiations with Marlin Equity without any further extension of exclusivity.

On November 26, 2017, the Board of Directors held a special meeting attended by certain members of senior management and representatives of GCA Advisors and DLA Piper. The representatives of GCA Advisors updated the Board of Directors on the negotiations since the prior meeting and the terms of the proposed transaction.

The representatives of GCA Advisors reviewed with the Board of Directors, based upon materials provided to the Board of Directors in advance of the meeting, the financial analysis of GCA Advisors prepared in connection with its opinion relating to the proposed transaction with Marlin Equity. GCA Advisors confirmed that it had no conflicts of interest to report to the Board of Directors that could affect the Board of Director s reliance on its opinion. GCA Advisors then orally informed the Board of Directors that, based upon and subject to the factors and assumptions previously discussed by GCA Advisors, it was GCA Advisors opinion that the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement was fair, from a financial point of view, to such holders and that GCA Advisors was prepared to deliver its written opinion providing the same. The full text of the written opinion of GCA Advisors, dated November 26, 2017, is attached as Annex C to this proxy statement and is described in more detail below under Opinion of GCA Advisors, LLC.

The representative of DLA Piper then reviewed the terms of the Merger Agreement and financing commitment letters and related arrangements, copies of which had been provided to the Board of Directors in advance of the meeting. The representatives of GCA Advisors and management, other than Mr. Austin, then left the meeting.

The Board of Directors then further discussed and considered the proposed transaction including the considerations described in more detail below under Reasons for the Merger. Mr. Austin confirmed for the Board of Directors that management, including Mr. Austin, had not engaged in any negotiations regarding the terms of their employment following closing of the Merger. Mr. Austin then recused himself from any vote on the Merger and left the meeting.

The independent, disinterested directors of the Board of Directors then further discussed the proposed transaction including the considerations described in more detail below under Reasons for the Merger. Following such discussion and consideration, the independent, disinterested directors unanimously adopted and approved the Merger and the entry into the Merger Agreement with Marlin Equity, in substantially the form and on the terms presented to the Board of Directors, determined that the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement are fair to, and in the best interests of, the Company and its stockholders and resolved to recommend that the stockholders of the Company adopt the Merger Agreement and approve the Merger Agreement.

The representative of DLA Piper reviewed with the Board of Directors the don t ask/don t waive provisions in the confidentiality agreements entered into among the Company and potential acquirers. Following discussion, the Board of Directors determined to waive such provisions with respect to all parties to such provisions.

Following the meeting, GCA Advisors delivered its written opinion to the Board of Directors, dated November 26, 2017, to the effect that, as of such date and based upon and subject to the factors and assumptions

set forth in its opinion, the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement was fair, from a financial point of view, to such holders. The full text of the written opinion of GCA Advisors, dated November 26, 2017, is attached as **Annex C** to this proxy statement and is described in more detail below under Opinion of GCA Advisors, LLC.

On the evening of November 26, 2017, the Company and Marlin Equity executed the Merger Agreement and other definitive documentation. On November 27, 2017, the Company issued a press release announcing its entry into the Merger Agreement.

On November 28, 2017, GCA Advisors, at the Company s direction, sent notices to each potential acquirer that had executed confidentiality agreements containing don t ask/don t waive provisions that the Company waived such provision of the respective confidentiality agreements to the extent that such provision prohibits or purports to prohibit such party making a proposal to the Board of Directors or such party requesting that the Company waive or amend the confidentiality agreement to permit a proposal from being made to the Board of Directors.

Recommendation of the Board of Directors and Reasons for the Merger

Recommendation of the Board of Directors

The Board of Directors recommends that you vote FOR approval of the Merger Proposal, FOR approval of the Adjournment Proposal and FOR approval of the Compensation Proposal.

Reasons for the Merger

In evaluating the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement, the Board of Directors consulted with the Company s senior management, as well as representatives of its financial advisor and outside legal counsel. In the course of making its determination that the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, are fair to, and in the best interests of, the Company and its stockholders and to recommend that the Board of Directors approve and declare advisable the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, the Board of Directors considered numerous factors, including the following non-exhaustive list of material factors and benefits of the Merger, each of which the Board of Directors believed supported its determination and recommendation:

Per Share Merger Consideration. The Board of Directors considered:

the current and historical market prices of the Common Stock, including the performance of the Common Stock relative to other participants in the Company s industry; and

the fact that the Per Share Merger Consideration represented a premium value for the Company s stockholders, including a premium of 18% over the average closing price of the Common Stock for the 30-calendar day period ending November 24, 2017, the last trading day before the announcement of the Merger Agreement.

Business and Financial Condition. The Board of Directors considered the Company s historical and projected business, industry, markets, financial performance and condition and its prospects.

Risks and Uncertainties. The Board of Directors considered, among other factors, that the Company s business and that its stockholders would continue to be subject to significant risks and uncertainties if the Company remained an independent public company, including:

that the achievement of the Company s standalone plan has and would continue to require significant changes in the Company s business and personnel and the risks and uncertainties of the impacts of these changes on the Company s performance and its ability to achieve the plan;

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the pace and magnitude of on-going adverse changes in the markets in which the Company operates, particularly within the retail market in which the Company sells its products and services;

the impacts of pricing pressure and reduced spending for the Company s products and services, particularly within the Company s core SaaS business, and the resultant risks that the Company will not be able to attract and retain its customers, maintain pricing or achieve its standalone plan;

the challenges in, and inconsistent performance of, the Company s advertising business and the risks and uncertainties of its growth prospects, investment requirements and performance;

the loss of key personnel in, and the restructuring of, the Company s European operations and the uncertainties of the Company s performance and necessary investment in those markets;

that developing, introducing and growing the Company s new products and services require long-term and strategic investments, and the significant risks that these products and services will not be successful or realize favorable returns;

the difficulties for the Company to accurately forecast demand for its products and services and overall Company performance in light of these and other risks and uncertainties;

the uncertainty of whether future trading values would reach the Per Share Merger Consideration as compared to the certainty of realizing a compelling value for shares of Common Stock in the Merger; and

the risks set forth in the Company s Annual Report on Form 10-K for the fiscal year ended April 30, 2017 and subsequent quarterly reports on Form 10-Q and current reports on Form 8-K.

Quality of the Sale Process. The Board of Directors considered:

that all of the directors on the Board of Directors (other than Mr. Austin) were independent and disinterested and were actively involved throughout the sale process including the day-to-day involvement and oversight by Messrs. Meredith and Hawn, both independent directors;

that the Board of Directors thoroughly considered each of the potential financial and strategic acquirers most likely and capable of acquiring the Company;

that representatives of the Company s financial advisor made contact with numerous financial sponsors and potential strategic acquirers to see if they would be interested in acquiring the Company;

that only five potential strategic acquirers and seven financial sponsors (including Marlin Equity) contacted engaged in any discussion regarding a potential acquisition of the Company, that no potential strategic acquirer contacted made an offer to acquire the Company and that only three financial sponsors contacted made an offer to acquire the Company;

that two of the three financial sponsors that originally submitted non-binding indications of interest subsequently rescinded such indications of interest; and

that the Per Share Merger Consideration of $5.50 was the only offer that was not subsequently rescinded or reduced.

Negotiation Process. The Board of Directors considered the fact that the terms of the Merger Agreement were the result of robust arm s-length negotiations conducted by the Company, with the knowledge and at the direction of the Board of Directors, and with the assistance of independent financial advisors and outside legal counsel.

GCA Advisors Financial Presentation. The Board of Directors considered the financial analyses of GCA Advisors that were presented to the Board of Directors and performed in connection with the written opinion of GCA Advisors dated November 26, 2017, to the effect that, as of such date and

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based upon and subject to the various factors and assumptions set forth in the written opinion, the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement was fair, from a financial point of view, to such holders, as more fully described below under the heading Opinion of GCA Advisors, LLC.

Certainty of Consideration. The Board of Directors considered that the all-cash nature of the consideration to be paid in the Merger allows Company stockholders to realize immediate and certain premium cash value and liquidity, while avoiding the significant future risks and uncertainties for the Company and the markets generally.

Management Projections. The Board of Directors considered forecasts for the Company prepared by Company management, which reflect an application of various assumptions of the Company s senior management. The Board of Directors considered the inherent uncertainty of attaining management s forecasts, including those set forth in Management Projections, and that due to such uncertainty the Company s actual financial results in future periods could differ materially from management s forecasted results.

Likelihood of Completion; Certainty of Payment. The Board of Directors considered its belief that, absent a superior proposal, the Merger represented a transaction that would likely be consummated based on, among other factors:

- the absence of any financing condition to the consummation of the Merger;
- the Merger Agreement requires Parent to use its reasonable best efforts to obtain applicable regulatory approvals to consummate the Merger as further described below under the heading The Merger Agreement Regulatory Approvals;
- the fact that the conditions to the closing of the Merger are specific and limited in scope; and
- the Company s ability to request that the Delaware Court of Chancery (or, if the Delaware Court of Chancery lacks subject matter jurisdiction, any federal court located in the County of New Castle, Delaware) specifically enforce the Merger Agreement, including the consummation of the Merger, under certain circumstances described in The Merger Agreement Specific Performance.

Other Terms of the Merger Agreement. The Board of Directors considered other terms of the Merger Agreement, which are more fully described below under the heading The Merger Agreement. Certain provisions of the Merger Agreement that the Board of Directors considered significant include:

Ability to Respond to Unsolicited Acquisition Proposals. Prior to the receipt of the Company stockholder approval, the Company may provide confidential information and/or engage in discussions or negotiations in connection with a bona fide written acquisition proposal (as more fully described below under the headings The Merger Agreement Change in Recommendation or Alternative Acquisition Agreement) if the Board of Directors determines in good faith, after consultation with its financial advisor and outside legal counsel, that such acquisition proposal either constitutes a superior proposal or is reasonably likely to result in a superior proposal and that the failure to take such action would be inconsistent with the directors fiduciary duties under applicable law, subject to certain notice requirements in favor of Parent and the entry into an acceptable confidentiality agreement;

Change in Recommendation in Response to a Superior Proposal. The ability of the Company to terminate the Merger Agreement in order to accept a superior proposal, subject to Marlin Equity s ability to match such superior proposal and subject to paying Parent a termination fee of approximately $18.3 million and other conditions of the Merger Agreement (as more fully described below under the heading The Merger Agreement Termination Fee);

Company Termination Fee. The fact that the Board of Directors believed that the termination fee described above is approximately 3.5% of the purchase price of the Company, which amount the

Board of Directors believed was reasonable in light of, among other things, the typical size of such termination fees in similar transactions, the benefits of the Merger to the Company s stockholders and the likelihood that a fee of such size would not be preclusive of other offers;

Termination Date. The Termination Date under the Merger Agreement on which either party, subject to certain exceptions, can terminate the Merger Agreement allows for sufficient time to consummate the Merger, while minimizing the length of time during which the Company would be required to operate subject to the restrictions on interim operations set forth in the Merger Agreement; and

Appraisal Rights. The availability of statutory appraisal rights under the DGCL in connection with the Merger.

Financing-Related Terms. The Board of Directors considered:

disruptions, uncertainty or volatility in the capital and credit markets and its effect on Marlin Equity s ability to finance an acquisition of the Company;

Parent s receipt of the executed Debt Commitment Letter, which contained a commitment with respect to $245 million in senior-secured loan facilities, on the terms and subject to the conditions of such commitment letter from Golub Capital Markets LLC, an entity with experience in similar lending transactions, which, in the reasonable judgment of the Board of Directors, increased the likelihood of such financing being completed;

Parent s receipt of the Equity Commitment Letter provided by Marlin Equity to fund up to a maximum amount of $235 million for the equity portion of the financing;

the fact that Parent was required to use reasonable best efforts to obtain the equity financing contemplated by the Equity Commitment Letters, and to use reasonable best efforts to cause the Debt Financing Sources that are party to the Debt Commitment Letter, to fund the Debt Financing at the closing, upon the satisfaction of the conditions to such financings;

the limited number and nature of the conditions to funding set forth in the Debt Commitment Letter and Equity Commitment Letters and the expectation that such conditions would be timely met and that the financing would be provided in a timely manner;

the requirement in the Merger Agreement, if Parent and Merger Sub fail to effect the closing under certain circumstances, for Parent to pay the Parent termination fee of approximately $26.1 million without the Company having to establish any damages;

the Limited Guarantee provided by Marlin Equity in favor of the Company that guarantee the payment of the Parent termination fee and certain other indemnification and expense reimbursement obligations if and to the extent such amounts are payable under the Merger Agreement, subject to an aggregate cap of $26.1 million; and

the specific right of the Company to seek an injunction, or other appropriate form of specific performance or equitable relief, in connection with enforcing Parent s obligation to cause the Equity Financing to be provided by Marlin Equity to be funded, subject to the terms and conditions of the Merger Agreement as more fully described below under the heading The Merger Agreement Specific Performance.

The Board of Directors also considered a number of uncertainties, risks and potentially negative factors in its deliberations concerning the Merger and the other transactions contemplated by the Merger Agreement, including the following:

No Participation in the Company s Future. The Board of Directors considered that if the Merger is consummated, Company stockholders (other than certain members of the Company s management) will receive the Per Share Merger Consideration in cash and will no longer have the opportunity to

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participate in any future earnings or growth of the Company or benefit from any potential future appreciation in the value of Company shares, including any value that could be achieved if the Company engages in future strategic or other transactions;

Non-Solicitation Covenant. The Board of Directors considered that the Merger Agreement imposes restrictions on the Company s solicitation of acquisition proposals from third parties. However, based upon the process to review strategic alternatives described above in Background of the Merger, and the fact that the most likely potential acquirers of the Company were contacted during such process, the Board of Directors believed it had a strong basis for determining that the Merger was the best transaction reasonably likely to be available to the Company;

Expense Reimbursement and Termination Fees. The Board of Directors considered the fact that the Company must pay Parent a termination fee of approximately $18.3 million if the Merger Agreement is terminated under certain circumstances, including to accept a superior proposal, and that the amount of the termination fee is comparable to termination fees in transactions of a similar size, is reasonable, would not likely deter competing bids and would not likely be required to be paid unless the Company entered into a more favorable transaction. Additionally, the Board of Directors considered the fact that the Company must reimburse Parent s expenses up to $2 million if the Merger Agreement is terminated because the Company breaches the Merger Agreement in a manner that would cause the related closing conditions to not be met, with the amount of such expenses deducted from any termination fee that subsequently becomes payable by the Company. The Board of Directors also recognized that the provisions in the Merger Agreement relating to these fees and expenses were insisted upon by Parent as a condition to entering into the Merger Agreement;

Interim Operating Covenants. The Board of Directors considered that the Merger Agreement imposes restrictions on the conduct of the Company s business prior to the consummation of the Merger, requiring that the Company and its subsidiaries conduct their business in all material respects in the ordinary course of business and to use commercially reasonable best efforts to preserve their business organizations substantially intact, customers and suppliers having significant business dealings with them and keep available the services of their key employees, and that may limit the Company and its subsidiaries from taking specified actions, which may delay or prevent the Company from undertaking business opportunities that may arise pending completion of the Merger;

Risks the Merger May Not Be Completed. The Board of Directors considered the risk that the conditions to the Merger may not be satisfied and that, therefore, the Merger would not be consummated. The Board of Directors also considered the risks and costs to the Company if the Merger is not consummated, including the diversion of management and employee attention, potential employee attrition, the potential effect on the Company s business operations, including its relationships with vendors, distributors, customers, partners and others that do business with the Company, and the potential effect on the trading price of Company shares;

Parent Termination Fee. The Board of Directors considered the fact that the Company is entering into a Merger Agreement with a newly formed entity without any material assets and, accordingly, that the Company s monetary remedy in connection with a breach of the Merger Agreement by Parent or Merger Sub

is limited to the payment of the approximately $26.1 million Parent termination fee under certain circumstances which may not be sufficient to compensate the Company for losses suffered as a result of a breach of the Merger Agreement by Parent or Merger Sub;

Potential Conflicts of Interest. The Board of Directors considered the potential conflict of interest created by the fact that the Company s executive officers and directors have financial interests in the transactions contemplated by the Merger Agreement, including the Merger, that may be different from or in addition to those of other stockholders, as more fully described under the heading Interests of Directors and Executive Officers in the Merger; and

Tax Treatment. The Board of Directors considered that the receipt of the Per Share Merger Consideration will generally be taxable to stockholders of the Company.

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The foregoing discussion is not meant to be exhaustive, but summarizes material factors considered by the Board of Directors in its consideration of the Merger. After considering these and other factors, the Board of Directors concluded that the potential benefits of the Merger outweighed the uncertainties and risks. In view of the variety of factors considered by the Board of Directors and the complexity of these factors, the Board of Directors did not find it practicable to, and did not, quantify or otherwise assign relative weights to the foregoing factors in reaching its determination and recommendations. Moreover, each member of the Board of Directors applied his or her own personal business judgment to the process and may have assigned different weights to different factors. Upon due consideration of these and other factors, the Board of Directors believed that, overall, the potential benefits of the Merger to the Company s stockholders outweighed the risks and uncertainties of the Merger and adopted and approved (with Mr. Austin recusing himself from the vote) the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement and recommends that stockholders adopt the Merger Agreement and approve the Merger based upon the totality of the information presented to and considered by the Board of Directors.

Opinion of GCA Advisors, LLC

The Company retained GCA Advisors to act as its financial advisor in connection with the Merger based on GCA Advisors qualifications, expertise, reputation and knowledge of our business and affairs and the industry in which the Company operates. GCA Advisors is a global investment bank serving a broad client base through a range of advisory services, including mergers and acquisitions, debt and equity capital markets, private funds, restructuring, and asset management. GCA Advisors is continuously involved with providing advisory services that include the valuation of businesses and securities in connection with mergers and acquisitions. On November 26, 2017, GCA Advisors delivered its opinion to the Board of Directors that, as of that date, the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement was fair, from a financial point of view, to such holders.

The full text of the written opinion that GCA Advisors delivered to the Board of Directors, which describes, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken by GCA Advisors, is attached as **Annex C** to this proxy statement. You should read the opinion carefully in its entirety.

GCA Advisors delivered its opinion to the Board of Directors for the benefit and use of the Board of Directors in connection with and for purposes of its evaluation of the Per Share Merger Consideration from a financial point of view. The Per Share Merger Consideration the Company s stockholders would receive in the transaction was determined through arm s-length negotiations between the Company, on the one hand, and Parent, on the other hand, and was approved by the Board of Directors. GCA Advisors opinion does not constitute a recommendation to the Board of Directors or any committee thereof, the Company s stockholders, or any other person as to any specific action that should be taken in connection with the Merger, including whether the Company s stockholders should vote for the Merger Proposal. The GCA Advisors opinion was approved by a fairness committee of GCA Advisors.

The opinion addresses only whether the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement is fair, from a financial point of view, to such holders. The opinion does not address the Company s underlying business decision to enter into the Merger Agreement, or the relative merits of the Merger as compared to any alternatives that may be available to the Company. GCA Advisors was not asked to, nor has it, offered any opinion as to the material terms of the Merger Agreement (other than as expressly set forth in the last paragraph of the opinion with respect to the fairness of the Per Share Merger Consideration) or the structure of the Merger. Further, the opinion does not address the fairness of the amount or nature of, or any other aspect relating to, any compensation to any of the Company s officers, directors or employees, or class of such persons, including, without limitation, in relation to the Per Share Merger Consideration.

For purposes of its opinion, GCA Advisors:

- reviewed a draft, dated November 24, 2017, of the Merger Agreement and certain related documents;
- reviewed certain publicly available financial statements and other business and financial information of the Company;
- reviewed certain internal financial statements and other financial and operating data concerning the Company prepared by the Company s management;
- reviewed certain financial projections relating to the Company prepared by the Company s management;
- discussed the past and current operations and financial condition and the prospects of the Company with the Company s management;
- reviewed and discussed with the Company s management and the Board of Directors certain alternatives to the Merger;
- reviewed and discussed with the Company s management and the Board of Directors their view of the strategic rationale for the Merger;
- reviewed the recent reported closing prices and trading activity for the Company s common stock;
- compared the financial performance of the Company and the prices and trading activity of the common stock of the Company with that of certain other comparable publicly traded companies and their securities that GCA Advisors believed to be generally relevant in evaluating the business of the Company;
- reviewed the financial terms, to the extent publicly available, of certain comparable transactions that GCA Advisors believed to be generally relevant in evaluating the Company s business and the Merger;
- evaluated a discounted cash flow analysis based on the projected future cash flows of the Company as provided by the Company s management;
- reviewed the premium to the stock price of certain comparable transactions that GCA Advisors believed to be generally relevant in evaluating the business of the Company and the Merger;

participated in discussions and negotiations among representatives of the Company and Parent; and

performed such other analyses and considered such other factors as GCA Advisors deemed appropriate.

In preparing its opinion, GCA Advisors assumed and relied upon, without independent verification, the accuracy and completeness of the information provided to and reviewed by it for the purposes of the opinion. GCA Advisors did not undertake any responsibility for the accuracy, completeness or independent verification of such information. With respect to the financial and cash flow projections of the Company, GCA Advisors assumed that they were reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company of the future financial performance of the Company and that such projections provided a reasonable basis for the opinion. GCA Advisors assumes no responsibility for and expressed no view as to such projections or the assumptions on which they were based. In addition, GCA Advisors assumed that the Merger would be consummated in accordance with the terms set forth in the November 24, 2017 draft Merger Agreement furnished to GCA Advisors, without waiver by any party of any material rights thereunder, or any amendment or modification thereto and that the representations and warranties contained in the Merger Agreement made by the parties thereto were true and correct in all respects material to GCA Advisors analysis. GCA Advisors also assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the Merger would be timely obtained without any material restriction. The opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to GCA Advisors as of, November 26, 2017. GCA Advisors assumes no responsibility to update or

revise its opinion based upon events or circumstances occurring or becoming known to it after November 26, 2017.

GCA Advisors did not make any independent investigation of any legal, accounting or tax matters affecting the Company or the Merger, and it assumed the correctness of all legal, accounting and tax advice given to the Company and the Board of Directors. GCA Advisors was not asked to prepare, nor has it prepared, an appraisal of any of the assets or liabilities of the Company or concerning the solvency or fair value of the Company, nor has GCA Advisors been furnished with any such appraisals, and its opinion should not be construed as such. GCA Advisors was requested to and did initiate discussions with and solicit indications of interest from certain third parties with respect to a possible transaction with the Company. GCA Advisors also took into account its experience in transactions that it believes to be generally comparable or relevant, as well as its experience in securities valuation in general.

The following represents a summary of the material financial analyses performed by GCA Advisors in connection with delivering its opinion to the Board of Directors. Some of the summaries of financial analyses performed by GCA Advisors include information presented in tabular format. In order to fully understand the financial analyses performed by GCA Advisors, the Company s stockholders should read the tables together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. Considering the data set forth in the tables without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of the financial analyses performed by GCA Advisors.

Comparable Company Analysis

Based on public and other available information, GCA Advisors calculated the multiples of enterprise value to (i) revenue (such multiples, the Revenue Multiples), (ii) Adjusted EBITDA, as described in the section entitled Management Projections below (such multiples, the Adjusted EBITDA Multiples), and (iii) Adjusted EBITDA minus capitalized software development costs (Modified Adjusted EBITDA , and such multiples, Modified Adjusted EBITDA Multiples) in each case for estimated calendar years 2017 and 2018, for selected software companies, based on the closing prices of shares of common stock for such comparable companies as of November 24, 2017. GCA Advisors utilized Wall Street analyst research, CapitalIQ and certain publicly available financial statements and press releases to analyze the relevant metrics. GCA Advisors believes, based on it judgement, that the seven companies listed below (the Comparable Companies) have similar operating or financial performance characteristics to those of the Company, but noted that none of these companies have the same management, composition, industry, size or operations as the Company. Summary Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples for each of the Comparable Companies for estimated calendar years 2017 and 2018 (CY2017E and CY2018E , respectively) are listed below:

Comparable Company	***Revenue Multiples***		***Adjusted EBITDA Multiples(1)***		***Modified Adjusted EBITDA Multiples(1)***	
	CY2017E	**CY2018E**	**CY2017E**	**CY2018E**	**CY2017E**	**CY2018E**
Brightcove, Inc.	*1.8x*	*1.7x*	*NM*	*NM*	*NM*	*NM*
Carbonite, Inc.	*2.9x*	*2.6x*	*14.9x*	*11.6x*	*16.0x*	*12.3x*
CSG Systems International, Inc.	*2.1x*	*2.0x*	*9.5x*	*9.9x*	*10.0x*	*10.5x*
ChannelAdvisor Corporation	*1.6x*	*1.5x*	*NM*	*NM*	*NM*	*NM*
NIC Inc.	*2.8x*	*2.6x*	*10.3x*	*9.7x*	*10.7x*	*10.1x*
QAD Inc.	*2.3x*	*2.2x*	*NM*	*NM*	*NM*	*NM*

Web.com Group, Inc.	*2.4x*	*2.4x*	*9.5x*	*9.2x*	*10.8x*	*10.4x*

(1) Multiples lower than zero or higher than 25 considered not meaningful (NM).

While the comparable company analysis compared the Company to seven software companies, based on the closing prices of shares of common stock as of November 24, 2017, GCA Advisors did not include every company that could be deemed to be a participant in this same industry or in the specific sectors of this industry.

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Based on these comparable companies, GCA Advisors determined a range of Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples to be applied to the Company s revenue, Adjusted EBITDA and Modified Adjusted EBITDA for CY2017E and CY2018E. The following table sets forth the Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples indicated by this analysis and the implied per share values to the Company stockholders:

	Multiple Range(1)		***Implied Per Share Value(2)***	
	Low	***High***	***Low***	***High***
CY2017E Revenue Multiples	*1.9x*	*2.6x*	*$ 4.97*	*$ 6.38*
CY2018E Revenue Multiples	*1.9x*	*2.5x*	*$ 4.94*	*$ 6.37*
CY2017E Adjusted EBITDA Multiples	*9.5x*	*11.4x*	*$ 3.23*	*$ 3.74*
CY2018E Adjusted EBITDA Multiples	*9.6x*	*10.3x*	*$ 4.90*	*$ 5.21*
CY2017E Modified Adjusted EBITDA Multiples	*10.5x*	*12.1x*	*$ 2.72*	*$ 3.02*
CY2018E Modified Adjusted EBITDA Multiples	*10.3x*	*10.9x*	*$ 4.48*	*$ 4.72*

(1) Range based on 25th Percentile and 75th Percentile of the relevant comparable group, as applicable.
(2) Implied Share Value calculated based on fully diluted shares outstanding calculated using treasury stock method with 99.8 million total shares outstanding, including shares of common stock, gross options outstanding, restricted stock units and performance share units. Net debt assumed to be negative $65.2 million, in accordance with the preliminary balance sheet as of October 31, 2017.

GCA Advisors noted that the Per Share Merger Consideration was above the range of implied per share value for each of the CY2017E Adjusted EBITDA Multiples, CY2018E Adjusted EBITDA Multiples, CY2017E Modified Adjusted EBITDA Multiples and CY2018E Modified Adjusted EBITDA Multiples and was within the range of implied per share value for the CY2017E Revenue Multiples and CY2018E Revenue Multiples.

Comparable Transactions Analysis

Based on public and other available information, GCA Advisors calculated (to the extent relevant financial data was available or meaningful) the Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples for the applicable last-12-months period (LTM) and next-12-months period (NTM) for the following selected comparable acquisitions of small market capitalization software companies occurring since 2011. GCA Advisors utilized Wall Street analyst research, CapitalIQ and certain publicly available financial statements and press releases to analyze the relevant LTM and NTM metrics. The transactions used in this comparison were selected because the respective target company possessed, in GCA Advisors judgment, similar operating or financial performance characteristics to those of the Company.

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The transactions analyzed, together with their respective announcement dates, are listed below:

Announcement Date	*Acquirer*	*Target*
6/21/2017	True Wind Capital, L.P.	ARI Network Services, Inc.
5/1/2017	Wave Systems Corp.	Jive Software, Inc.
4/28/2017	Asentinel, LLC	Tangoe, Inc.
4/10/2017	Harland Clarke Holdings Corp.	RetailMeNot, Inc.
10/21/2016	Ziff Davis, LLC	Everyday Health, Inc.
11/2/2015	Endurance International Group Holdings, Inc.	Constant Contact, Inc.
9/10/2015	Siris Capital Group, LLC	Premiere Global Services, Inc.
2/14/2014	GTCR Investment X AIV Ltd.	Cision AB
6/24/2013	Thoma Bravo, LLC	Keynote Systems, Inc.
5/20/2013	Vista Equity Partners Fund IV, L.P.	Websense Inc.
7/2/2012	One Equity Partners V, L.P.	MModal, Inc.
4/4/2011	Apax Partners LLP	Epicor Software Corporation

Summary enterprise value to LTM and NTM Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples for these transactions are listed below:

	Revenue Multiples		*Adjusted EBITDA Multiples*		*Modified Adjusted EBITDA Multiples*	
	LTM	**NTM**	**LTM**	**NTM**	**LTM**	**NTM**
Min	*1.2x*	*1.3x*	*7.7x*	*7.6x*	*9.4x*	*8.6x*
Max	*2.7x*	*2.7x*	*16.3x*	*20.6x*	*18.6x*	*20.6x*
Median	*2.0x*	*1.9x*	*13.1x*	*11.0x*	*13.8x*	*11.8x*

No company or transaction used in the comparable transactions analyses is identical to the Company or the Merger. GCA Advisors noted that none of these companies have the same management, composition, industry, size or operations as the Company. Accordingly, an analysis of the results of the foregoing is not purely mathematical; rather, it involves complex considerations and judgments concerning differences in financial and operating characteristics of the companies and other factors that could affect the value of the companies and transactions to which the Company and the Merger, respectively, are being compared.

Based on these comparable transactions, GCA Advisors determined a range of potential Revenue Multiples, Adjusted EBITDA Multiples and Modified Adjusted EBITDA Multiples to be applied to the Company s revenue, Adjusted EBITDA and Modified Adjusted EBITDA for the LTM period for the 12 months ended October 31, 2017 and estimated revenue, estimated Adjusted EBITDA and estimated Modified Adjusted EBITDA for the NTM period for the 12 months ending October 31, 2018. The following table sets forth the multiples indicated by this analysis and the implied per share values to the Company s stockholders based on the estimated financial metrics for the Company provided by the Company s management:

	Multiple Range(1)		*Implied Per Share Value(2)*	
	Low	***High***	***Low***	***High***
LTM Revenue Multiples	*1.6x*	*2.6x*	*$ 4.25*	*$ 6.33*
NTM Revenue Multiples	*1.6x*	*2.3x*	*$ 4.33*	*$ 5.86*
LTM Adjusted EBITDA Multiples	*9.6x*	*14.0x*	*$ 3.12*	*$ 4.21*
NTM Adjusted EBITDA Multiples	*8.6x*	*15.0x*	*$ 4.16*	*$ 6.65*
LTM Modified Adjusted EBITDA Multiples	*12.8x*	*15.5x*	*$ 2.98*	*$ 3.46*
NTM Modified Adjusted EBITDA Multiples	*11.2x*	*15.7x*	*$ 4.36*	*$ 5.80*

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(1) Range based on 25th Percentile and 75th Percentile of the relevant comparable group, as applicable.
(2) Implied Share Value calculated based on fully diluted shares outstanding calculated using treasury stock method with 99.8 million total shares outstanding, including shares of common stock, gross options outstanding, restricted stock units and performance share units. Net debt assumed to be negative $65.2 million, in accordance with the preliminary balance sheet as of October 31, 2017.

GCA Advisors noted that the Per Share Merger Consideration was above the range of implied per share value for the LTM Adjusted EBITDA Multiples and LTM Modified Adjusted EBITDA Multiples and was within the range of implied per share value for each of the LTM Revenue Multiples, the NTM Revenue Multiples, the NTM Adjusted EBITDA Multiples and the NTM Modified Adjusted EBITDA Multiples.

Discounted Cash Flow Analysis

GCA Advisors used financial cash flow forecasts of the Company for the second half of fiscal year 2018 and for fiscal years 2019 through 2022, in each case as prepared by the Company s management (and which included the estimated impact of tax benefits from the carryforward of net operating losses) to perform a discounted cash flow analysis, based on unlevered free cash flow as described in the section entitled Management Projections below. In conducting this analysis, GCA Advisors assumed that the Company would perform in accordance with these forecasts provided by management. GCA Advisors estimated the Company s perpetual unlevered free cash flows by applying terminal growth rates of 0.0% to 4.0%, based on GCA Advisors comparative analysis and its judgment, and then discounted the unlevered free cash flows projected through fiscal year 2022 and the perpetual unlevered free cash flows to present values using rates ranging from 13.0% to 15.0%. GCA Advisors considered publicly available data, CapitalIQ financial databases and Duff &Phelps data published on Duff & Phelps s website and in Duff & Phelps s *2015 Valuation Handbook Guide to Cost of Capital* when analyzing the range of discount rates for the unlevered free cash flows of the Company, including: (i) a U.S. risk-free rate of 3.5%, based on the normalized 20-year U.S. Treasury yield published by Duff & Phelps on Duff & Phelps s website, as of September 2017, (ii) a beta estimate of 1.38, measured over a 2-year period based on the median of (x) beta estimates for the Comparable Companies, according to CapitalIQ financial databases, adjusted to be consistent with the Company s zero leverage, consistent with the Company s preliminary balance sheet as of October 31, 2017 and (y) the Company s beta estimate, which reflected the fact that the Company had zero leverage, (iii) an equity market risk premium of 5.5%, based on Duff & Phelps s recommended U.S. equity market risk premium published by Duff & Phelps on Duff & Phelps s website, as of September 2017 and (iv) a size premium of 2.7%, based on the market capitalization of the Company, based on Duff & Phelps s *2015 Valuation Handbook Guide to Cost of Capital*. This method of analysis, when holding the discount rate constant at 14% and varying the terminal growth rate from 0% to 4%, indicated a range of implied per share values ranging from $4.54 to $5.47, based on fully diluted shares outstanding calculated using the treasury stock method, with 99.8 million total shares outstanding, including shares of common stock, gross options outstanding, restricted stock units and performance share units, used for the calculation and net debt assumed to be negative $65.2 million, in accordance with the preliminary balance sheet as of October 31, 2017. GCA Advisors noted that the per share value implied by the Per Share Merger Consideration was above the range of per share values for the Common Stock implied by the discounted cash flow analysis.

Other Information

GCA Advisors also reviewed the trading range for the closing price of the Common Stock for the 30-calendar day period ending November 24, 2017, which was $4.38 to $4.88 per share, the 90-calendar day period ending November 24, 2017, which was $4.38 to $5.10 per share and the 12-month period ending November 24, 2017, which was $3.85 to $5.30 per share and, in each case, compared them to the per share value implied by the Per Share Merger Consideration. GCA Advisors noted that these trading ranges were presented for reference purposes only, and were not relied upon for valuation purposes.

GCA Advisors also reviewed the consideration paid in completed or announced acquisitions of 50 U.S. publicly traded technology target companies with implied equity values between $200 million and $750 million, which

acquisitions were paid for with consideration consisting of at least 95% percent cash, announced or completed in the three-year period ending on November 24, 2017 and calculated the premiums paid in these transactions over the last unaffected stock price prior to announcement, which range (based on the 25th through 75th percentile for the set of transactions) was 19% to 43%, and the average stock price of the target company for a period of 30 calendar days prior to the announcement of the proposed acquisition, which range (based on the 25th through 75th percentile for the set for transactions) was 22% to 50%, and, in each case, compared them to the applicable premium implied by the Per Share Merger Consideration, and calculated the implied per share value to the Company stockholders within a selected range of each of these metrics, as applied to the Company s last unaffected stock price prior to announcement, which range (based on the 25th through 75th percentile for the set of transactions) was $5.73 to $6.85 per share, and the 30-calendar day average of the Company s closing stock prices, which range (based on the 25th through 75th percentile for the set of transactions) was $5.66 to $6.95, and, in each case compared them to the per share value implied by the Per Share Merger Consideration. GCA Advisors noted that this premiums analysis was presented for reference purposes only, and was not relied upon for valuation purposes.

Miscellaneous

The foregoing description is only a summary of the analyses and examinations that GCA Advisors deems material to its opinion. It is not a comprehensive description of all analyses and examinations actually conducted by GCA Advisors. The preparation of a fairness opinion necessarily is a complex process involving subjective judgment and is not necessarily susceptible to partial analysis or summary description. GCA Advisors believes that its analyses and the summary set forth above must be considered as a whole and that selecting portions of its analyses and of the factors considered, without considering all analyses and factors, would create an incomplete view of the process underlying the analyses set forth in its presentation to the Board of Directors. In addition, GCA Advisors may have given various analyses more or less weight than other analyses, and may have deemed various assumptions more or less probable than other assumptions. The fact that any specific analysis has been referred to in the summary above is not meant to indicate that this analysis was given greater weight than any other analysis. Accordingly, the ranges of valuations resulting from any particular analysis described above should not be taken to be the view of GCA Advisors with respect to the actual value of the Company.

In performing its analyses, GCA Advisors made numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which are beyond the control of the Company. The analyses performed by GCA Advisors are not necessarily indicative of actual values or actual future results, which may be significantly more or less favorable than those suggested by these analyses. These analyses were prepared solely as part of the analysis performed by GCA Advisors with respect to its opinion and were provided to the Board of Directors in connection with the delivery of the GCA Advisors opinion that, as of November 26, 2017, the Per Share Merger Consideration to be received by the holders of Common Stock pursuant to the Merger Agreement is fair, from a financial point of view, to such holders. The analyses do not purport to be appraisals or to reflect the prices at which a company might actually be sold or the prices at which any securities may trade at any time in the future.

As described above, GCA Advisors opinion and presentation were among the many factors the Board of Directors took into consideration in making its determination to approve the Merger Agreement, and should not be viewed as determinative of the views of the Board of Directors or management with respect to the Merger or the Per Share Merger Consideration. GCA Advisors did not recommend any specific consideration to the Board of Directors or state that any specific consideration constituted the only appropriate consideration.

GCA Advisors has acted as financial advisor to the Board of Directors in connection with the Merger and its opinion and will receive a fee for its services. GCA Advisors received a fee of $1,000,000 following delivery of the opinion,

which will be credited against the Transaction Fee (as defined below). GCA Advisors additionally received monthly retainer fees of $25,000 per month, which will also be credited against the Transaction Fee. The remainder of the $7,800,000 total fee payable to GCA Advisors is contingent upon the successful

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consummation of the Merger (the Transaction Fee). In addition, the Company has agreed to reimburse GCA Advisors expenses and indemnify GCA Advisors against certain liabilities arising out of its engagement.

In the two years prior to November 26, 2017, GCA Advisors provided strategic advisory services to the Company and received $205,858.87 in aggregate fees for such services (including the reimbursement of expenses). GCA Advisors has not, in the two years prior to November 26, 2017 at any time, provided financial advisory services for Parent or Merger Sub. However, GCA Advisors may seek to provide such services to Parent or its affiliates in the future and receive fees for such services.

Management Projections

The Company does not, as a matter of course, publicly disclose projections as to its future financial performance. However, in connection with the comprehensive strategic and financial review process as described in this proxy statement, management prepared certain unaudited forecasts (the Management Projections), which were provided to the Board of Directors, GCA Advisors and parties potentially interested in a transaction with the Company, including Parent. The Management Projections included separate projections based on the July Plan (the July Management Projections) and the October Plan (the October Management Projections).

The Management Projections were not prepared with a view to public disclosure and are included in this proxy statement only because the Management Projections were made available to participants in the strategic and financial review process in connection with their due diligence review of the Company, and made available to GCA Advisors for use in connection with its financial analyses. The Management Projections were not prepared with a view to compliance with (1) generally accepted accounting principles in the U.S. (GAAP) or any other jurisdiction, (2) the published guidelines of the SEC regarding projections and forward-looking statements; or (3) the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. Neither the Company s independent registered public accounting firm, nor any other independent accountants, have audited, reviewed, compiled, examined, or performed any procedures with respect to the Management Projections or expressed any opinion or given any form of assurance with respect thereto or their achievability. The report of the Company s independent registered public accounting firm incorporated by reference relates to the Company s historical audited financial information only and does not extend to the prospective financial information and should not be read to do so. The summary of the Management Projections is included solely to give stockholders of the Company access to certain financial projections that were made available to the Board of Directors, GCA Advisors and parties potentially interested in a transaction with the Company, including Parent.

Although a summary of the Management Projections is presented with numerical specificity, they reflect numerous assumptions and estimates as to future events made by the Company s management that management believed were reasonable at the time the Management Projections were prepared, taking into account the relevant information available to the Company s management at the time. However, this information should not be relied upon as being necessarily indicative of actual future results. Important factors that may affect actual results and cause the Management Projections not to be achieved include general economic conditions, regulatory conditions, financial market conditions, the Company s ability to achieve forecasted sales, accuracy of certain accounting assumptions, changes in actual or projected cash flows, competitive pressures and changes in tax laws or accounting treatment. The Management Projections also reflect assumptions as to certain business decisions that are subject to change. In addition, the Management Projections do not take into account any circumstances or events occurring after the date that they were prepared and do not give effect to the Merger. As a result, there can be no assurance that the Management Projections will be realized, and actual results may be materially better or worse than those contained in the Management Projections. The Management Projections cover multiple years, and such information by its nature becomes less reliable with each successive year.

The inclusion of the Management Projections in this proxy statement should not be regarded as an indication that the Board of Directors, the Company, Parent or any of their respective affiliates or representatives or any other

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recipient of this information considered, or now considers, the Management Projections to be predictive of actual future results. The summary of the Management Projections is not included in this proxy statement in order to induce any stockholder to vote in favor of the Merger Proposal or any of the other proposals to be voted on at the Special Meeting or for any other purpose. We do not intend to update or otherwise revise the Management Projections to reflect circumstances existing after the date when made or to reflect the occurrence of future events, even in the event that any or all of the assumptions underlying the Management Projections are shown to be in error or no longer appropriate, except as otherwise required by law. **In light of the foregoing factors and the uncertainties inherent in the Management Projections, stockholders are cautioned not to place undue, if any, reliance on the projections included in this proxy statement**.

None of the Company, Parent or any of their respective affiliates, advisors, officers, directors or representatives has made or makes any representation to any Company stockholder or other person regarding the ultimate performance of the Company compared to the information contained in the Management Projections or that the Management Projections will be achieved. The Company has made no representation to Parent or Merger Sub, in the Merger Agreement or otherwise, concerning the Management Projections.

The Management Projections and the accompanying tables contain Adjusted EBITDA and free cash flow, which may be considered non-GAAP financial measures within the meaning of applicable rules and regulations of the SEC. The Company believes both measures are helpful in understanding its past financial performance and future results. These financial measures are not meant to be considered in isolation or as a substitute for the comparable GAAP measures and should be read in conjunction with the Company s consolidated financial statements prepared in accordance with GAAP.

For purposes of the Management Projections, the Company defined Adjusted EBITDA as GAAP net loss adjusted for stock-based expense, contingent consideration related to acquisitions, depreciation and amortization (including amortization of capitalized internal-use software development costs), restructuring charges, out of period sales tax refunds, integration and other costs related to acquisitions, other non-business costs and benefits, income tax expense and other (income) expense, net. For purposes of the Management Projections, the Company defines free cash flow as Adjusted EBITDA adjusted for an amount equal to the Company s projected estimate of aggregate increases in net working capital, cash taxes, capitalized internal use software and increases in property, plant and equipment. The Company s management believes that Adjusted EBITDA and free cash flow are frequently used by (a) securities analysts, investors and other interested parties in their evaluation of companies, many of which present Adjusted EBITDA and free cash flow measures when reporting their results, and (b) parties such as those potentially interested in a transaction with the Company that may secure debt financing, as creditors providing such debt financing typically use Adjusted EBITDA and free cash flow as key metrics to assess the credit worthiness of an underlying company. The following table summarizes the Management Projections. The Management Projections are forward-looking statements. For information on factors that may cause the Company s future results to materially vary, see the information under the section captioned Cautionary Statement Regarding Forward-Looking Statements.

July Management Projections

($ in millions)	**FY 2018E**	**FY 2019E**	**FY 2020E**	**FY 2021E**	**FY 2022E**
Revenue	$ 209	$ 224	$ 246	$ 279	$ 326
Adjusted EBITDA	$ 23	$ 31	$ 37	$ 50	$ 67
Free Cash Flow	$ 10	$ 18	$ 25	$ 37	$ 52

October Management Projections

($ in millions)	FY 2018E	FY 2019E	FY 2020E	FY 2021E	FY 2022E
Revenue	$ 209	$ 218	$ 230	$ 248	$ 275
Adjusted EBITDA	$ 26	$ 50	$ 52	$ 56	$ 63
Free Cash Flow	$ 13	$ 38	$ 41	$ 44	$ 48

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In connection with the financial analysis performed by GCA Advisors for purposes of its opinion to the Board of Directors, management prepared an adjusted calculation of unlevered free cash flow that was derived by subtracting separate estimated projected amounts for increases in net working capital, cash taxes, capitalized internal use software and increases in property, plant and equipment rather than an aggregate estimated projected amount. This calculation generated projections for unlevered free cash flow of $8.4 million for the second half of fiscal 2018, $41.8 million for fiscal 2019, $45.3 million for fiscal 2020, $49.9 million for fiscal 2021 and $57.1 million for fiscal 2022.

As noted above, the Management Projections reflect numerous estimates and assumptions made with respect to industry performance, general business, economic, regulatory, market and financial conditions and other future events, as well as matters specific to our business, all of which are difficult to predict and many of which are beyond our control.

Financing of the Merger

We anticipate that the total funds needed by Parent and Merger Sub to:

- pay our stockholders and holders of equity awards the amounts due to them under the Merger Agreement; and

- pay related fees and expenses in connection with the Merger and associated transactions

will be approximately $520 million.

We anticipate that the funds needed to pay the amounts described above will be obtained as follows:

- Equity Financing to be provided to Parent by Marlin Equity or other parties to whom it assigns a portion of its commitment, in an aggregate amount of up to $235 million; and

- Debt Financing to Parent and Merger Sub in the form of a senior secured term loan facility and a senior secured revolving credit facility in an aggregate principal amount of $245 million.

We believe the amounts committed under the Equity Commitment Letter and the Debt Commitment Letter, each as described below, will be sufficient to complete the Merger and pay related fees and expenses in connection with the Merger and associated transactions and repay or refinance the outstanding indebtedness of the Company that will be payable as a result of the Merger, but we cannot assure you of that. Those amounts may be insufficient if, among other things, Marlin Equity fails to purchase its committed amounts in breach of its Equity Commitment Letter, the commitment parties under the Debt Commitment Letter fail to fund the committed amounts in breach of such Debt Commitment Letter or the fees, expenses or other amounts required to be paid in connection with the Merger are greater than anticipated.

Equity Commitments

Parent has entered into the Equity Commitment Letter, dated November 26, 2017, with Marlin Equity, pursuant to which Marlin Equity committed to capitalize Parent, at or immediately prior to the Effective Time, with an aggregate

common equity contribution in an amount of up to $235 million, subject to the terms and conditions set forth therein. Under certain circumstances, the Company is entitled to seek specific performance to cause Parent to draw down the full proceeds of the Equity Financing in connection with the consummation of the Merger pursuant to the terms and conditions of the Equity Commitment Letter and the Merger Agreement.

Debt Commitments

Parent and Merger Sub have entered into the Debt Commitment Letter pursuant to which the Debt Financing Sources have committed to provide Debt Financing to Parent and Merger Sub in the form of a senior secured term loan facility and a senior secured revolving credit facility in an aggregate principal amount of $245 million, on the terms and subject to the conditions set forth in the Debt Commitment Letter.

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Limited Guarantees

Pursuant to the Limited Guarantee, dated November 26, 2017, delivered by Marlin Equity, as the Guarantors in favor of the Company, the Guarantors have agreed to guarantee the due, prompt and complete payment to the Company of an amount equal to the Parent termination fee and certain indemnification and certain expense reimbursement obligations if and to the extent such amounts are payable under the Merger Agreement, including the reimbursement and indemnification obligations of Parent and Merger Sub in connection with any costs and expenses incurred by the Company as a result of its cooperation with the arrangement of the Debt Financing (the Guaranteed Obligations), subject to an aggregate cap of $26.1 million.

Subject to specified exceptions, the Limited Guarantees will terminate upon the earliest of:

- the valid termination of the Merger Agreement pursuant to a Failure to Close Termination and payment in full of the parent termination fee and the other Guaranteed Obligations;
- any other valid termination of the Merger Agreement pursuant to the terms thereof in circumstances where Parent and Merger Sub would not be obligated to pay the Guaranteed Obligations; and
- payment of the Guaranteed Obligations by the Guarantors, Parent or Merger Sub.

Closing and the Effective Time

The Merger Agreement provides that the closing of the Merger will take place on the third business day following the date on which the last of the conditions to closing of the Merger (described under The Merger Agreement Conditions to Completion of the Merger) has been satisfied or waived (other than the conditions that by their nature are to be satisfied at the closing of the Merger, but subject to the fulfillment or waiver of those conditions), or at such other location, date and time as Parent and the Company shall mutually agree upon in writing.

Payment of Per Share Merger Consideration and Surrender of Stock Certificates

Each holder of record of a certificate representing shares of Common Stock (other than holders of Excluded Shares) will be sent a letter of transmittal describing how such holder may exchange its shares of Common Stock for the Per Share Merger Consideration promptly, and in any event within five business days, after the completion of the Merger.

You should not return your stock certificates with the enclosed proxy card, and you should not forward your stock certificates to the payment agent without a letter of transmittal.

If you are a holder of record of Common Stock, you will not be entitled to receive the Per Share Merger Consideration until you deliver to the payment agent either a duly completed and executed letter of transmittal or an agent s message with respect to book-entry shares representing shares of Common Stock and such other documents as may be required pursuant to such instructions. If your shares are certificated, you must also surrender your stock certificate or certificates to the payment agent. If ownership of your shares is not registered in the transfer records of the Company, a check for any cash to be delivered will only be issued if the applicable letter of transmittal is accompanied by the certificate formerly representing such shares (or an affidavit of loss in lieu thereof accompanied by a written indemnity agreement in form and substance reasonably acceptable to Parent if requested by Parent, which indemnity

will not require the posting of a bond) and all documents reasonably required to evidence and effect transfer and to evidence that any applicable stock transfer taxes have been paid or are not applicable.

Interests of Directors and Executive Officers in the Merger

In considering the recommendation of the Board of Directors with respect to the Merger, you should be aware that executive officers and directors of the Company may have certain interests in the Merger that may be

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different from, or in addition to, the interests of the Company s stockholders generally, as more fully described below. The Board of Directors was aware of and considered these interests to the extent that they existed at the time, among other matters, in evaluating the Merger and in recommending that the Merger Agreement be adopted by the stockholders of the Company.

Arrangements with Parent

As of the date of this proxy statement, none of our executive officers has entered into any agreement with Parent or any of its affiliates regarding employment with, or the right to purchase or participate in the equity of, the Surviving Corporation or one or more of its affiliates, except as set forth below. As described above under Treatment of Equity-Based Awards , the ELT Members have agreed to receive equity of Topco in exchange for the cancellation of certain outstanding unvested options and RSUs. Prior to or following the closing of the Merger certain of our executive officers may have discussions, or may enter into agreements with, Parent or Merger Sub or their respective affiliates regarding employment with the Surviving Corporation or one or more of its affiliates.

Indemnification and Insurance of Directors and Executive Officers

The Surviving Corporation and its subsidiaries will honor and fulfill in all respects the obligations of the Company and its subsidiaries under any and all indemnification agreements existing as of the date of the Merger Agreement between the Company or any of its subsidiaries and any of their respective current or former directors and officers for a period of six years following the Effective Time. The Surviving Corporation will indemnify, defend and hold harmless (to the extent provided for in the Company s certificate of incorporation and bylaws in place as of the date of the Merger Agreement) current or former directors and officers of the Company and its subsidiaries with respect to all acts or omissions by them in their capacities as such or any transactions contemplated by the Merger Agreement for a period of six years following the Effective Time. During such six-year time period, Parent also will cause the certificate of incorporation, bylaws or other organizational documents of the Surviving Corporation and its subsidiaries to contain provisions with respect to indemnification, exculpation and advancement of expenses for acts, errors, omissions and service prior to the Effective Time that are at least as favorable to the current or former directors and officers of the Company and its subsidiaries as those set forth in the Company s and its subsidiaries organizational documents as of the date of the Merger Agreement and will not amend, repeal or otherwise modify these provisions in the organizational documents in any manner except as required by law.

The Merger Agreement also provides that, for a period of six years following the Effective Time, the Surviving Corporation will maintain in effect the Company s current directors and officers liability insurance in respect of acts or omissions occurring at or prior to the Effective Time on terms with respect to coverage and amount that are equivalent to those currently existing on the date of the signing of the Merger Agreement. Prior to the Effective Time, the Company will purchase a six-year tail policy and the Surviving Corporation will maintain such tail policy in full force and effect and continue to honor the obligations under the tail policy. This obligation is subject to an aggregate premium cap of six times 300% of the last annual premium paid by the Company prior to the Effective Time. For more information see The Merger Agreement Indemnification and Insurance.

Treatment of Equity-Based Awards

Vested Stock Options. At the Effective Time, each outstanding vested option to acquire Common Stock will be canceled and converted to the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the

exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

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Unvested Stock Options. At the Effective Time, outstanding unvested options to acquire Common Stock that have an exercise price per share that is equal to or more than the Per Share Merger Consideration, will, to the extent not exercised prior to the Effective Time, be canceled for no consideration. At the Effective Time, other than with respect to the ELT Members, thirty percent (30%) of a holder s outstanding unvested options to acquire Common Stock (rounded up to the nearest whole share) that have an exercise price per share that is less than the Per Share Merger Consideration, shall fully vest and become exercisable, and to the extent not exercised prior to the Effective Time, canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option. At the Effective Time, other than with respect to the ELT Members, each holder s remaining outstanding unvested options to acquire Common Stock will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, to be paid in accordance with the original vesting conditions applicable to the underlying options on the Company s next regular payroll date following the applicable vesting date.

Unvested Stock Options held by ELT Members. At the Effective Time, outstanding unvested options to acquire Common Stock held by the ELT Members that have an exercise price per share that is less than the Per Share Merger Consideration, shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, which shall be paid as follows:

- twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

- forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested stock options that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such stock options (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

- the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Restricted Stock Units. At the Effective Time, other than with respect to the ELT Members, thirty percent (30%) of the unvested portion of a holder s RSUs (rounded up to the nearest whole share) shall fully vest and the holders of such RSUs will be entitled to receive, in exchange for the cancellation of such portion of the RSUs, an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs. At the Effective Time, other than with respect to the ELT Members, each holder s remaining unvested RSUs will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested RSUs, to be paid in accordance with the original vesting conditions applicable to the underlying RSUs on the Company s next regular payroll date following the applicable vesting date.

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Restricted Stock Units held by ELT Members. At the Effective Time, outstanding unvested RSUs held by the ELT Members shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs, which shall be paid as follows:

- twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

- forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested RSUs that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such RSUs (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

- the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Restricted Stock. At the Effective Time, all outstanding unvested shares of restricted stock shall be cancelled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested shares of restricted stock.

Payment. Unless otherwise noted, the payments in respect of such stock options, RSUs and restricted stock will be paid, without interest, as soon as practicable, but in no event later than the date that is the later of five business days following the Effective Time and the Company s first regular payroll date after the Effective Time. If a holder holds multiple stock options or RSU awards, each such award will be divided pro rata in accordance with the divisions set forth above.

Details of Class A Preferred Units and Class B Common Units of Topco. Immediately prior to the Effective Time, the ELT Members will enter into a subscription agreement as required under the limited partnership agreement of Topco, and a grant agreement under the profits interests plan of Topco. The Class A Preferred Units will accrue a 12% annual preferred return, compounded quarterly. Distributable funds of Topco will be distributed first to the Class A Preferred Units in the amount of the accrued preferred return followed by a return of the invested capital in respect of the Class A Preferred Units. Any subsequent distributions will be to the holders of Class B Common Units, pro rata. The ELT Members entitlement to allocations, distributions and other rights with respect to the Class A Preferred Units and Class B Common Units, as

applicable, will be set forth in the partnership agreement of Topco. As of immediately after the Effective Time, the Class B Common Units issued to the ELT Members that are intended to qualify as profits interests will not be entitled to distributions. The aggregate Class A Preferred Units to be issued to the ELT Members in exchange for the cancellation of unvested equity awards held by such ELT Members will represent 1.62% of the total Class A Preferred Units in Topco, no portion of which will be issued to the ELT Members in the form of profits interests. The aggregate Class B Common Units to be issued to the ELT Members in exchange for the cancellation of unvested equity awards held by such ELT Members will represent 6.20% of the total Class B Common Units in Topco, which includes 4.76% of the Class B Common Units of Topco that will be issued to the ELT Members in the form of profits interests.

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Treatment of Employee Stock Purchase Plan

Until its termination immediately prior to the Effective Time, the ESPP will continue to operate according to its terms, except that commencing on the date of the Merger Agreement, ESPP participants (and those eligible to participate) are not permitted to increase the rate of payroll contributions or commence new contributions to the ESPP. In addition, all participation in and purchases under the ESPP will be suspended on the earlier of the Company s last payroll immediately prior to the Effective Time or 10 business days before the Effective Time, with all outstanding purchases made on such date. After the suspension date, no new offering periods under the ESPP will be commenced and the ESPP will terminate immediately prior to, and contingent upon, the Effective Time. Any cash remaining in the ESPP after purchases occurring on the ESPP suspension date will be refunded to ESPP participants.

Equity Interests of the Company s Executive Officers and Non-Employee Directors

Payments for Shares of Common Stock

The following table sets forth the number of shares of Common Stock that are currently held by each of the Company s executive officers and non-employee directors, and the amounts that would be realized (subject to any required tax withholdings or deductions) by such individuals with respect to these shares based on the $5.50 Per Share Merger Consideration assuming that the Effective Time occurred on December 1, 2017.

Name	Shares (#)(1)	Consideration Payable ($)
Thomas J. Meredith	264,847	$ 1,456,659
Craig A. Barbarosh	0	0
Steven H. Berkowitz	70,048	385,264
Krista Berry	7,834	43,087
Jeffrey S. Hawn	148,503	816,767
Allison M. Wing	7,663	42,147
Gene Austin	414,261	2,278,436
James R. Offerdahl	165,419	909,805
Gary G. Allison	87,004	478,522
Kin Gill	66,063	363,347
Michael Paulson	128,555	707,053
Elizabeth Ritzcovan	30,449	167,470
Ryan D. Robinson	84,872	466,796
Joseph Rohrlich	51,458	283,019
Sara Spivey	39,432	216,876
Kelly Trammell	51,756	284,658

(1) Includes shares directly held and shares beneficially owned as defined in Rule 16a-1(a)(2) under the Exchange Act. Excludes shares of Common Stock that may be purchased under the ESPP, as the option rights under the ESPP have not yet accrued and are undeterminable as of December 1, 2017.

Payments for Equity Awards for Non-ELT Members

The following table sets forth the number of shares of Common Stock underlying equity awards that are currently held by each of the Company s non-ELT Member executive officers and non-employee directors, in each case that either are currently vested or that will vest in connection with the Merger, in each case assuming that the Effective Time occurred on December 1, 2017. The table also sets forth the amounts that would be realized (subject to any required tax withholdings or deductions) by our non-ELT Member executive officers and non-employee directors with respect to these equity awards based on the $5.50 Per Share Merger Consideration (minus the applicable exercise price for stock options that will be exchanged for cash consideration). No new

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shares of Common Stock or equity awards were granted to any non-ELT Member executive officer or non-employee director in contemplation of the Merger.

Name	Vested Stock Options (#)(1)	Unvested Restricted Stock (#)(2)	Unvested Stock Options (#)(1)	Unvested RSUs (#)(3)	Total Consideration Payable ($)(4)
Thomas J. Meredith	112,477	0	0	0	$ 71,985
Craig A. Barbarosh	0	20,640	0	0	113,520
Steven H. Berkowitz	0	21,409	0	0	117,750
Krista Berry	0	39,170	0	0	215,435
Jeffrey S. Hawn	0	8,592	0	0	47,256
Allison M. Wing	0	38,314	0	0	210,727
James R. Offerdahl	48,002	0	80,004	352,347	693,698
Elizabeth Ritzcovan	150,522	0	174,481	247,087	650,774

(1) Excludes any stock options with an exercise price equal to or greater than the Per Share Merger Consideration, which stock options will be cancelled without consideration.
(2) Pursuant to the terms of the applicable award agreements, all shares of restricted stock held by non-employee directors not vested as of the Effective Time would accelerate and vest as of such time.
(3) The number of shares of Common Stock underlying performance-based unvested RSUs is based upon the deemed achievement of all applicable performance goals at one hundred percent (100%) of target levels.
(4) Represents the total value payable in cash with respect to vested stock options and unvested equity awards and assumes (i) cancellation and payment in cash (less the applicable exercise price) for all vested stock options with an exercise price less than the Per Share Merger Consideration, (ii) cancellation and payment in cash for all outstanding shares of restricted stock, (iii) 30% acceleration, cancellation and payment in cash (less the applicable exercise price) for all unvested stock options with an exercise price less than the Per Share Merger Consideration (calculated net of the applicable exercise price) and (iv) 30% acceleration, cancellation and payment in cash for all unvested RSUs, each as described above in Treatment of Equity-Based Awards.

Payments for Equity Awards for ELT Members

The following table sets forth the number of shares of Common Stock underlying equity awards that are currently held by each of the ELT Members that will be cancelled in exchange for cash or equity in Topco in connection with the Merger, in each case assuming that the Effective Time occurred on December 1, 2017. These awards will be treated in the manner described above in Treatment of Equity-Based Awards and will be cancelled and exchanged for cash or equity in Topco, as applicable, upon the completion of the Merger. The table also sets forth the amounts of such awards that would be cancelled with respect to these equity awards based on the $5.50 Per Share Merger Consideration (minus the applicable exercise price for the in-the-money options). No new shares of Common Stock or equity awards were granted to any ELT Member.

Name	Amount of Cancelled Unvested Equity Awards ($)(4)

	Vested Stock Options (#)(1)	Vested Stock Option Cash Consideration ($)(2)	Unvested Stock Options (#)(1)	Unvested RSUs (#)(3)	Exchanged for Cash Consideration(5)	Exchanged for Topco Units(6)	Exchanged for Topco Profits Interests(7)	Total Amount of Cancelled Unvested Equity Awards
Gene Austin	200,005	$ 312,008	350,007	821,204	$ 1,012,527	$ 2,025,053	$ 2,025,053	$ 5,062,633
Gary G. Allison	33,752	52,653	56,252	237,787	279,116	558,233	558,233	1,395,582
Kin Gill	20,438	31,883	34,064	203,961	234,985	469,970	469,970	1,174,925
Michael Paulson	85,730	122,405	105,106	243,962	298,885	597,769	597,769	1,494,423
Ryan D. Robinson	20,438	31,883	34,064	184,511	213,590	427,180	427,180	1,067,950
Joseph Rohrlich	26,717	40,125	35,218	242,712	277,813	555,625	555,625	1,389,063
Sara Spivey	20,438	31,883	34,064	184,836	213,948	427,895	427,895	1,069,738
Kelly Trammell	32,292	65,990	42,708	138,169	169,038	338,076	338,076	845,190

(1) Excludes any stock options with an exercise price equal to or greater than the Per Share Merger Consideration, which stock options will be cancelled without consideration.
(2) Represents the total value payable in cash (subject to any required tax withholdings or deductions) with respect to vested stock options with an exercise price less than the Per Share Merger Consideration, which shall be cancelled and paid in cash (less the applicable exercise price).
(3) The number of shares of common stock underlying performance-based unvested RSUs is based upon the deemed achievement of all applicable performance goals at one hundred percent (100%) of target levels.
(4) Represents the anticipated dollar amount of unvested equity awards that will be cancelled and exchanged for cash or equity in Topco as described above under Treatment of Equity-Based Awards. Does not include cash amounts payable by Parent to each ELT Member for the income tax payable with respect to the issuance of Topco Units in exchange for the cancellation of unvested equity awards that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such equity awards.
(5) Represents the anticipated dollar amount of unvested equity awards that will be cancelled and exchanged for cash, as described above under Treatment of Equity-Based Awards and subject to any required tax withholdings or deductions.
(6) Represents the anticipated dollar amount of unvested equity awards that will be cancelled and exchanged for Topco Units. As described above under Treatment of Equity-Based Awards, one Class A Preferred Unit and one Class B Common Unit of Topco will be issued for each whole dollar of unvested equity awards so cancelled and exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested equity awards that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such equity awards (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax).
(7) Represents the anticipated dollar amount of unvested equity awards that will be cancelled and exchanged for Class B Common Units of Topco that are intended to qualify as profits interests. As described above under Treatment of Equity-Based Awards, one Class B Common Unit of Topco intended to qualify as a profits interest will be issued for each whole dollar of unvested equity awards so cancelled.

Payments Upon Termination Following Change-in-Control

We have entered into employment agreements (Employment Agreements) with each of Gene Austin, James R. Offerdahl, Gary Allison, Michael Paulson and Joe Rohrlich, our named executive officers, that provide for the payment of severance benefits if employment is terminated by us in connection with a change in control. The following descriptions of the terms of the Employment Agreements with our named executive officers are intended as a summary only and are qualified in their entirety by reference to the employment agreements filed as exhibits to our Annual Report on Form 10-K for the year ended April 30, 2017, which was filed with the SEC on June 16, 2017. For information regarding the potential total dollar value of the compensation that would be paid under these arrangements as of December 1, 2017 see below under Golden Parachute Compensation.

Pursuant to the Employment Agreements with our named executive officers, if a named executive officer is terminated without cause (as defined in the applicable employment agreement) or he or she resigns for good reason (as defined in the applicable employment agreement) within one year following a change of control, such officer is entitled to receive severance payments in an aggregate amount equal to the sum of (a) 12 months of his or her then-current base salary, to be paid in 12 equal monthly installments, (b) payment of 100% of his or her then-current target bonus assuming 100% achievement of plan and (c) payment of the monthly amount of COBRA continuation coverage for 12 months or until he or she becomes eligible for medical coverage from another employer.

In addition, employment agreements, stock option agreements and restricted stock unit agreements with Messrs. Austin, Offerdahl, Allison, Paulson and Rohrlich provide for double trigger vesting acceleration of equity

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awards, such that the vesting with respect to 100% of their outstanding and unvested stock options and restricted stock unit awards will be accelerated in the event of their termination of employment without cause or resignation for good reason during the period commencing (1) on or after the date that we have signed a definitive agreement or that our Board of Directors has endorsed a tender offer for our stock that, in either case, when consummated would result in a change of control (even though consummation is subject to approval or requisite tender by our stockholders and other conditions and contingencies), and ending (2) at the earlier of the date on which such definitive agreement or tender offer has been terminated without a change of control or on the date which is 12 months following the consummation of any transaction or series of transactions that results in a change of control.

For purposes of the definition of termination upon change of control above, the following terms have the following meanings:

cause means (i) the executive s willful and continued failure to perform substantially his or her duties with the Company (other than any such failure resulting from the executive s disability), (ii) any act of personal dishonesty, fraud or misrepresentation taken by the executive which was intended to result in substantial gain or personal enrichment for the executive at the expense of the Company, (iii) the willful engaging by the executive in illegal conduct or gross misconduct which is or is reasonably likely to be injurious to the Company; (iv) the executive s conviction of, or plea of nolo contendere or guilty to, a felony under the laws of the United States or any State; (v) the executive s breach of the terms of the executive s agreement(s) with the Company relating to proprietary information and inventions assignment, including the executive s EPIA; or (vi) the executive s material breach of the terms of his or her offer letter. Clauses (i), (v) and (vi) shall constitute Cause only after the executive has received from the Board of Directors written notice describing the circumstances of such breach or failure in reasonable detail and has been given a reasonable cure period of not less than thirty (30) days;

change of control means (a) any person (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), other than a trustee or other fiduciary holding securities of the Company under an employee benefit plan of the Company, becomes the beneficial owner (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of (A) the outstanding shares of Common Stock of the Company or (B) the combined voting power of the Company then-outstanding securities; (b) the Company is party to a merger or consolidation, or series of related transactions, which results in the voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving or another entity) at least fifty percent (50%) of the combined voting power of the voting securities of the Company or such surviving or other entity outstanding immediately after such merger or consolidation; (c) the sale or disposition of all or substantially all of the Company s assets (or consummation of any transaction, or series of related transactions, having similar effect), unless at least fifty (50%) percent of the combined voting power of the voting securities of the entity acquiring those assets is held by persons who held the voting securities of the Company immediately prior to such transaction or series of transactions; (d) the dissolution or liquidation of the Company, unless after such liquidation or dissolution all or substantially all of the assets of the Company are held in an entity at least fifty percent (50%) of the combined voting power of the voting securities of which is held by persons who held the voting securities of the Company immediately prior to such liquidation or dissolution; or (e) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing;

disability means that the executive, at the time notice is given, has been unable to substantially perform his or her duties under his or her Employment Agreement for not less than one hundred and twenty (120) work days within twelve (12) consecutive month period as a result of the executive s incapacity due to a physical or mental condition and, if reasonable accommodation is required by law, after any reasonable accommodation.

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good reason means the existence or occurrence of the following, provided that the executive s resignation occurs within thirty (30) days after the original occurrence of such event: (i) a change in the executive s position with the Company or a successor entity that materially reduces the executive s position, title, duties and responsibilities or the level of management to which the executive reports; (ii) a material reduction in the executive s total compensation and benefits package (including base salary, fringe benefits and target bonus under any corporate-performance based bonus or incentive programs as established from time to time) (provided, that, for the avoidance of doubt, any time-based option and performance-based option shall not be deemed compensation or benefits for purposes of this definition); or (iii) a relocation of the executive s place of employment by more than fifty (50) miles from the Company s current offices in Austin, Texas; provided, however, an event described in clauses (i), (ii) or (iii) of this paragraph shall give rise to good reason only if such change, reduction or relocation is effected without the executive s consent. The executive resignation will not be deemed to be for good reason unless the executive first provides the Company with written notice of the acts or omissions constituting the grounds for good reason and a reasonable cure period of not less than thirty (30) days following such notice, during which such condition has not have been cured.

In the event that the severance payments provided for in the Employment Agreements or otherwise payable to the executive officer constitute parachute payments within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the Code), and would be subject to the excise tax imposed by Code Section 4999, then the executive officer s severance benefits will be either delivered in full or delivered as to such lesser extent which would result in no portion of such severance benefits being subject to the excise tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax, results in the receipt by the executive officer on an after-tax basis of the greatest amount of severance benefits.

Golden Parachute Compensation

This section sets forth the information required by Item 402(t) of Regulation S-K regarding the compensation for each of the Company s named executive officers that is based on or otherwise relates to the Merger. This compensation is referred to as golden parachute compensation by the applicable SEC disclosure rules. The table below assumes that the closing of the Merger occurs on December 1, 2017 and the employment of the executive is terminated by the Company without cause or by the executive for good reason on such date. Our named executive officers will not receive pension, non-qualified deferred compensation or other benefits in connection with the Merger.

The amounts set forth in the table are estimates based on the $5.50 Per Share Merger Consideration. Some of the amounts set forth in the table would be payable solely by virtue of the consummation of the Merger. In addition to the assumptions regarding the consummation date of the Merger and the termination of employment, these estimates are based on certain other assumptions that are described in the footnotes accompanying the table below. Accordingly, the ultimate values to be received by a named executive officer in connection with the Merger will differ, and may differ substantially, from the amounts set forth below.

Name	Total Cash(1)	Total Equity(2)	Tax Reimbursement(3)	Other(4)	Total
Gene Austin	$ 944,739	$ 5,062,633	$	$	$ 6,007,372
Jim Offerdahl	$ 541,939	$ 2,062,715	$	$	$ 2,604,654
Gary Allison	$ 458,059	$ 1,395,582	$	$	$ 1,853,641
Michael Paulson	$ 480,517	$ 1,494,423	$	$	$ 1,974,940
Joe Rohrlich	$ 472,968	$ 1,389,063	$ 114,234	$ 24,800	$ 2,001,065

(1) Pursuant to the employment agreements described in Payments Upon Termination Following Change-in-Control above, each named executive officer, who is terminated without cause or resigns for good reason in connection with a change-in-control during the 12 months following a change in control will receive, subject to the terms and conditions of the applicable employment agreement, (i) 100% of

current monthly base salary for 12 months, payable in 12 monthly installments, (ii) 100% of current target bonus payable in one lump sum and (iii) payment of the monthly amount of COBRA continuation coverage for 12 months or until he becomes eligible for medical coverage from another employer. Such payments would consist of:

Name	Salary	Bonus	Health Benefits	Total
Gene Austin	$ 467,000	$ 467,000	$ 10,739	$ 944,739
Jim Offerdahl	$ 332,000	$ 199,200	$ 10,739	$ 541,939
Gary Allison	$ 317,000	$ 126,800	$ 14,259	$ 458,059
Michael Paulson	$ 329,000	$ 131,600	$ 19,917	$ 480,517
Joe Rohrlich	$ 285,000	$ 165,300	$ 22,668	$ 472,968

(2) These amounts represent the aggregate in-the-money value of the outstanding stock options and RSUs that would vest as a direct result of the Merger, assuming the Merger occurs on December 1, 2017 and the employment of the executive is terminated by the Company without cause or by the executive for good reason immediately following the Merger. These amounts do not include payments in respect of outstanding stock options or RSUs that are already vested, because the named executive officer would already be entitled to the economic benefit of such equity regardless of the transaction. For information regarding all equity awards held by named executive officers, see the table in the section entitled Equity Interests of the Company s Executive Officers and Non-Employee Directors .

(3) The amount in this column reflects estimated taxes payable by the Company with respect to the accelerated vesting of stock options and RSUs pursuant to a tax equalization benefit provided in connection with Mr. Rohrlich s expatriate assignment. This estimate assumes a 45% U.K. marginal tax rate and a 39.6% U.S. supplemental tax rate on the portion of the equity income that is subject to taxation in the U.K. Does not include cash amounts payable by Parent to Messrs. Austin, Allison, Paulson and Rohrlich, as ELT Members, for the income tax payable with respect to the issuance of Topco Units in exchange for the cancellation of unvested equity awards that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such equity awards.

(4) The amount in this column reflects estimated relocation expenses payable by the Company in connection with Mr. Rohrlich s expatriate assignment.

The table below sets forth the portion of the amounts reflected in the equity columns of the above golden parachute table as a result of double-trigger acceleration after giving effect to the acceleration provided for in the Merger Agreement, to which the named executive officer s employment was terminated without cause or he resigned for good reason , pursuant to the terms of each named executive officer s employment agreement as described in the section entitled Payments Upon Termination Following Change-in-Control above.

Name	Value of Company Options	Value of Company Restricted Stock Units	Total
Gene Austin	$ 546,011	$ 4,516,622	$ 5,062,633
Jim Offerdahl	$ 124,806	$ 1,937,909	$ 2,062,715

Gary Allison	$ 87,753	$ 1,307,829	$ 1,395,582
Michael Paulson	$ 152,632	$ 1,341,791	$ 1,494,423
Joe Rohrlich	$ 54,147	$ 1,334,916	$ 1,389,063

Indemnification and Insurance

The Merger Agreement provides that the Surviving Corporation will (and Parent must cause the Surviving Corporation to) honor and fulfill in all respects the obligations of the Company and the Company s subsidiaries under any and all indemnification agreements existing as of the Agreement Date between the Company or any of

the Company s subsidiaries and any of their respective current or former directors and officers. In addition, at the Effective Time and ending on the sixth anniversary of the Effective Time, the Surviving Corporation and the Company s subsidiaries shall (and Parent shall cause the Surviving Corporation and its Subsidiaries to) cause the certificates of incorporation and bylaws (and other similar organizational documents) of the Surviving Corporation and the Company s subsidiaries to contain provisions with respect to indemnification, exculpation and the advancement of expenses with respect to acts, errors, omissions and service prior to the Effective Time that are at least as favorable as the indemnification, exculpation and advancement of expenses provisions set forth in the certificate of incorporation and bylaws (or other similar organizational documents) of the Company and the Company s subsidiaries as of the date of the Merger Agreement, and such provisions shall not be repealed, amended or otherwise modified in any manner except as required by applicable law; provided, that the Company and Parent agree that the provisions of the certificate of incorporation of the Surviving Corporation will satisfy the requirements of this sentence with respect to the certificate of incorporation of the Company.

In addition, without limiting the foregoing, the Merger Agreement requires the Company to purchase a prepaid directors and officers insurance policy covering the officers and directors of the Company as of the date of the Merger Agreement for a period of six years, provided that such policy is subject to an aggregate premium cap of six times 300% of the last annual premium paid by the Company prior to the Effective Time. The Merger Agreement further requires the Surviving Corporation (and the Parent to cause the Surviving Corporation) to maintain such directors and officers insurance policy in full force and effect and continue to honor their respective obligations thereunder.

Material U.S. Federal Income Tax Consequences of the Merger

The following is a summary of the material U.S. federal income tax consequences of the Merger to U.S. holders and non-U.S. holders (each as defined below) whose shares of Common Stock are converted into the right to receive cash in the Merger. This summary does not purport to consider all aspects of U.S. federal income taxation that might be relevant to our stockholders. This discussion is based on the provisions of the Code, applicable U.S. Treasury regulations, judicial opinions, and administrative rulings and published positions of the Internal Revenue Service (the IRS), each as in effect as of the date hereof. These authorities are subject to change, possibly on a retroactive basis, and any such change could affect the accuracy of the statements and conclusions set forth in this discussion. The discussion applies only to beneficial owners who hold shares of Common Stock as capital assets within the meaning of Section 1221 of the Code (generally, property held for investment purposes), and does not apply to shares of Common Stock received in connection with the exercise of employee stock options or otherwise as compensation, stockholders who hold an equity interest, actually or constructively, in Parent or the Surviving Corporation after the Merger, stockholders who have perfected and not withdrawn a demand for, or lost the right to, appraisal under the DGCL or to certain types of beneficial owners who may be subject to special rules (such as insurance companies, banks, tax-exempt organizations, financial institutions, broker-dealers, partnerships, S corporations or other pass-through entities, mutual funds, traders in securities who elect the mark-to-market method of accounting, stockholders subject to the alternative minimum tax, stockholders that have a functional currency other than the U.S. dollar or stockholders who hold Common Stock as part of a hedge, straddle, constructive sale or conversion transaction). This discussion also does not address the U.S. tax consequences to any stockholder who, for U.S. federal income tax purposes, is a non-resident alien individual, foreign corporation, foreign partnership or foreign estate or trust, and does not address the receipt of cash in connection with the cancellation of phantom stock units, or options to purchase shares of Common Stock, or the treatment of shares of restricted stock or performance awards, or any other matters relating to equity compensation or benefit plans (including the plans). This discussion does not address any aspect of state, local or foreign tax laws, the additional 3.8% tax on certain net investment income that may be imposed under the Code or any other form of taxation that may be applicable to a stockholder. Furthermore, it generally does not address the tax consequences of transactions effectuated before, after, or at the same time as the Merger, whether or not they are in connection with the Merger.

If a partnership (including an entity treated as a partnership for U.S. federal income tax purposes) holds Common Stock, the tax treatment of a partner of such partnership generally will depend on the status of the partner and the

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activities of the partner and the partnership. A partner of a partnership holding Common Stock should consult the partner s tax advisor regarding the U.S. federal income tax consequences of the Merger to such partner.

We have not sought, and do not intend to seek, any ruling from the IRS with respect to the statements made and the conclusions reached in the following summary, and no assurance can be given that the IRS will agree with the views expressed herein, or that a court will not sustain any challenge by the IRS in the event of litigation.

U.S. Holders

For purposes of this discussion, we use the term U.S. holder to mean a beneficial owner of shares of Common Stock that is, for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States or any of its political subdivisions;
- a trust that (i) is subject to the supervision of a court within the United States and the control of one or more U.S. persons or (ii) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person; or
- an estate that is subject to U.S. federal income tax on its income regardless of its source.

The exchange of shares of Common Stock for cash in the Merger will be a taxable transaction for U.S. federal income tax purposes. In general, a U.S. holder whose shares of Common Stock are converted into the right to receive cash in the Merger will recognize capital gain or loss for U.S. federal income tax purposes equal to the difference, if any, between the amount of cash received with respect to such shares (determined before the deduction of any applicable withholding taxes, as described below under Backup Withholding and Information Reporting) and the U.S. holder s adjusted tax basis in such shares. A U.S. holder s adjusted tax basis will generally equal the price the U.S. holder paid for such shares. Gain or loss will be determined separately for each block of shares of Common Stock (i.e., shares of Common Stock acquired at the same cost in a single transaction). Such capital gain or loss will be long-term capital gain or loss, provided that the U.S. holder s holding period for such shares of Common Stock is more than 12 months at the Effective Time of the Merger. Long-term capital gains of non-corporate U.S. holders are generally subject to tax at a maximum rate of 20% under current law. There are limitations on the deductibility of capital losses.

Non-U.S. Holders

A non-U.S. holder is a beneficial owner of Common Stock that is not a U.S. holder or a partnership (or any other entity or arrangement that is treated as a partnership for U.S. federal income tax purposes). Although the matter is not free from doubt, to the extent any portion of the cash received in exchange for Common Stock in the Merger is considered to be provided by the Company, we intend to treat the payment of such cash as a distribution in redemption of shares of Common Stock and as a sale or exchange of the shares so redeemed. In such case, a non-U.S. holder whose shares of Common Stock are exchanged for cash in the merger will recognize capital gain or loss, which generally is not expected to be subject to U.S. federal income tax unless:

the gain, if any, on such shares is effectively connected with the non-U.S. holder s trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment maintained by the non-U.S. holder in the United States);

the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the exchange of shares of Common Stock for cash pursuant to the Merger and certain other conditions are met; or

the non-U.S. holder owned, directly or under certain constructive ownership rules of the Code, more than 5% of our Common Stock at any time during the five-year period preceding the merger, and the

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Company is or has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code for U.S. federal income tax purposes at any time during the shorter of the five-year period preceding the Merger or the period that the non-U.S. holder held Common Stock.

A non-U.S. holder described in the first bullet point immediately above will be subject to regular U.S. federal income tax on any gain realized as if the non-U.S. holder were a U.S. holder, subject to an applicable income tax treaty providing otherwise. If such non-U.S. holder is a corporation, it may also be subject to a branch profits tax equal to 30% (or a lower treaty rate) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items. A non-U.S. holder described in the second bullet point immediately above will be subject to U.S. federal income tax at a rate of 30% (or a lower treaty rate) on any gain realized, which may be offset by U.S.-source capital losses recognized in the same taxable year.

We believe we have not been a United States real property holding corporation for U.S. federal income tax purposes at any time during the five-year period preceding the Merger.

Backup Withholding and Information Reporting

Backup withholding of tax (currently at the rate of 28%) may apply to cash payments to which a non-corporate U.S. holder is entitled under the Merger Agreement, unless such U.S. holder provides a taxpayer identification number, certifies that such number is correct and otherwise complies with the backup withholding rules. Each of our U.S. holders should complete and sign, under penalty of perjury, the Substitute Form W-9 included as part of the letter of transmittal and return it to the payment agent, in order to provide the information and certification necessary to avoid backup withholding, unless an exemption applies and is established in a manner satisfactory to the payment agent.

Backup withholding is not an additional tax. Any amounts withheld from cash payments to a U.S. holder pursuant to the Merger under the backup withholding rules will generally be allowable as a refund or a credit against such U.S. holder s U.S. federal income tax liability provided the required information is timely furnished to the Internal Revenue Service.

Cash payments made pursuant to the Merger will also be subject to information reporting unless an exemption applies.

The U.S. federal income tax consequences described above are not intended to constitute a complete description of all tax consequences relating to the Merger. Because individual circumstances may differ, each stockholder should consult the stockholder s tax advisor regarding the applicability of the rules discussed above to the stockholder and the particular tax effects to the stockholder of the Merger in light of such stockholder s particular circumstances, the application of state, local and foreign tax laws, and, if applicable, the tax consequences of the receipt of cash in connection with the cancellation of phantom stock or options to purchase shares of Common Stock, or the treatment of shares of restricted stock or performance awards, including the transactions described in this proxy statement relating to our other equity compensation and benefit plans.

Regulatory Approvals

Under the terms of the Merger Agreement, the Merger cannot be completed until, following the submission of required filings with the relevant governmental authorities, the waiting period applicable to the consummation of the Merger under the HSR Act has expired or been terminated.

On December 7, 2017, the Company and Parent filed notification of the proposed Merger with the DOJ under the HSR Act. The waiting period for the notification filed under the HSR Act was terminated on December 21, 2017.

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Although we expect that all required regulatory clearances and approvals will be obtained, we cannot assure you that these regulatory clearances and approvals will be timely obtained or obtained at all or that the granting of these regulatory clearances and approvals will not involve the imposition of additional conditions on the completion of the Merger, including the requirement to divest assets, or require changes to the terms of the Merger Agreement. These conditions or changes could result in the conditions to the Merger not being satisfied on a timely basis or at all.

Legal Proceedings Regarding the Merger

In connection with the Merger Agreement and the transactions contemplated thereby, a purported class action lawsuit captioned Michael Schlaffer, Individually and on Behalf of All Others Similarly Situated v. Bazaarvoice, Inc. et al., has been filed on December 22, 2017 in the District Court, 201st Judicial District, Travis County, Texas. In general, the complaint asserts that, among other things, the members of the Board of Directors breached their fiduciary duties to stockholders by undergoing an unfair process that undervalues the Company, and by failing to disclose material information relating thereto. The complaint generally seeks to enjoin or rescind the Merger or, if consummated, recover damages resulting therefrom. Also on December 22, 2017, a purported class action lawsuit was filed, captioned Michael Schlaffer, Individually and on Behalf of All Others Similarly Situated v. Bazaarvoice, Inc. et al., in the United States District Court, Western District of Texas. In general, the complaint asserts that, among other things, the Company violated certain provisions of the Exchange Act by filing this proxy statement, which allegedly contains materially incomplete and misleading information. The complaint generally seeks to enjoin the Company from taking any steps to consummate the Merger until the omitted information is disseminated to stockholders, or, if the Merger is consummated, rescind the transaction or recover damages resulting therefrom. The Company believes that the above described claims are without merit and intends to vigorously defend both actions.

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THE MERGER AGREEMENT

This section describes the material terms of the Merger Agreement. The description in this section and elsewhere in this proxy statement is qualified in its entirety by reference to the complete text of the Merger Agreement, a copy of which is attached as ***Annex A*** *and is incorporated by reference into this proxy statement. This summary does not purport to be complete and may not contain all of the information about the Merger Agreement that is important to you. You are encouraged to read the Merger Agreement carefully and in its entirety before making any decisions regarding the Merger, including approval of the Merger Proposal, as it is the legal document governing the Merger. This section is not intended to provide you with any factual information about the Company, Parent or Merger Sub. Such information can be found elsewhere in this proxy statement and in the public filings the Company makes with the SEC, as described under the heading Where You Can Find More Information beginning on page 102 of this proxy statement.*

Explanatory Note Regarding the Merger Agreement

The following summary describes the material provisions of the Merger Agreement. The descriptions of the Merger Agreement in this summary and elsewhere in this proxy statement are not complete and are qualified in their entirety by reference to the Merger Agreement, a copy of which is attached to this proxy statement as **Annex A** and incorporated into this proxy statement by reference. We encourage you to read the Merger Agreement carefully and in its entirety because this summary may not contain all the information about the Merger Agreement that is important to you. **The rights and obligations of the parties are governed by the express terms of the Merger Agreement and not by this summary or any other information contained in this proxy statement. Capitalized terms used in this section but not defined in this proxy statement have the meaning ascribed to them in the Merger Agreement.**

The representations, warranties, covenants and agreements described below and included in the Merger Agreement (1) were made only for purposes of the Merger Agreement and as of specific dates; (2) were made solely for the benefit of the parties to the Merger Agreement; and (3) may be subject to important qualifications, limitations and supplemental information agreed to by Parent, Merger Sub and the Company in connection with negotiating the terms of the Merger Agreement. The representations and warranties may also be subject to a contractual standard of materiality different from those generally applicable to reports and documents filed with the SEC and in some cases were qualified by confidential matters disclosed to Parent and Merger Sub by the Company in connection with the Merger Agreement. In addition, the representations and warranties may have been included in the Merger Agreement for the purpose of allocating contractual risk between the Company, Parent and Merger Sub rather than to establish matters as facts, and may be subject to standards of materiality applicable to such parties that differ from those applicable to investors. Stockholders are not third-party beneficiaries under the Merger Agreement and should not rely on the representations, warranties, covenants and agreements or any descriptions thereof as characterizations of the actual state of facts or condition of the Company, Parent or Merger Sub or any of their respective affiliates or businesses. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement. In addition, you should not rely on the covenants in the Merger Agreement as actual limitations on the respective businesses of the Company, Parent and Merger Sub, because the parties may take certain actions that are either expressly permitted in the confidential Company disclosure schedules to the Merger Agreement or as otherwise consented to by the appropriate party, which consent may be given without prior notice to the public. The Merger Agreement is described below, and included as **Annex A**, only to provide you with information regarding its terms and conditions, and not to provide any other factual information regarding the Company, Parent, Merger Sub or their respective businesses. Accordingly, the representations, warranties, covenants and other agreements in the Merger Agreement should not be read alone, and you should read the information provided elsewhere in this document and in our filings with the SEC regarding the Company and our business.

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The Merger

Effects of the Merger; Certificate of Incorporation; Bylaws; Officers and Directors

Upon the terms and subject to the conditions of the Merger Agreement, if the Merger is completed, Merger Sub will merge with and into the Company. The Company will be the Surviving Corporation in the Merger and will be the wholly owned direct subsidiary of Parent and will continue to do business following the consummation of the Merger. As a result of the Merger, the Company will cease to be a publicly traded company. In addition, our Common Stock will be delisted from NASDAQ and deregistered under the Exchange Act, and we will no longer file periodic reports with the SEC. If the Merger is completed, you will not own any shares of the capital stock of the Surviving Corporation.

At the Effective Time, the certificate of incorporation and bylaws of the Surviving Corporation will be amended and restated as provided in the Merger Agreement. Except as otherwise directed by Parent, the directors of the Surviving Corporation will, from and after the Effective Time, be the individuals who are the directors of the Merger Sub immediately prior to the Effective Time. Except as otherwise directed by Parent, the officers of the Surviving Corporation will, from and after the Effective Time, be the individuals who are the officers of the Company immediately prior to the Effective Time.

Closing and Effective Time

The closing of the Merger will take place no later than the third business day following the satisfaction or waiver of all conditions to closing of the Merger (described below under the caption The Merger Agreement Conditions to the Closing of the Merger) (other than those conditions to be satisfied or waived at the closing of the Merger) or such other time agreed to in writing by Parent and us. Concurrently with the closing of the Merger, the Company and Merger Sub will file a certificate of merger with the Secretary of State of the State of Delaware as provided under the DGCL. The Merger will become effective upon the filing of the certificate of merger, or at such later time as is agreed by the parties and specified in the certificate of merger.

Per Share Merger Consideration

Common Stock

In the Merger, each outstanding share of Common Stock (other than Excluded Shares) will be converted into the right to receive an amount in cash equal to $5.50, without interest thereon (the Per Share Merger Consideration), less any applicable withholding taxes.

Treatment of Options, Restricted Stock Units, Restricted Shares and ESPP

As a result of the Merger, the treatment of the Company s equity awards that are outstanding immediately prior to the Effective Time will be as follows:

Company Stock Options

Each outstanding vested option to acquire Common Stock will be canceled and converted to the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

Other than with respect to the ELT Members, thirty percent (30%) of a holder s outstanding unvested options to acquire Common Stock (rounded up to the nearest whole share) that have an exercise price per share that is less than the Per Share Merger Consideration shall fully vest and become exercisable, and to the extent not exercised prior to the Effective Time, canceled and exchanged for the right to receive an amount in cash (subject to any

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required tax withholdings or deductions) equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option.

Other than with respect to the ELT Members, each holder s remaining outstanding unvested options to acquire Common Stock will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions)equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, to be paid in accordance with the original vesting conditions applicable to the underlying options on the Company s next regular payroll date following the applicable vesting date.

Outstanding unvested options to acquire Common Stock held by the ELT Members that have an exercise price per share that is less than the Per Share Merger Consideration shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the excess, if any, of the Per Share Merger Consideration over the exercise price per share of each such stock option, multiplied by (2) the number of shares subject to such stock option, which shall be paid as follows:

- twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

- forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested stock options that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such stock options (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

- the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Each option with an exercise price per share equal to or greater than $5.50 per share will be canceled without consideration.

Company Restricted Stock Units

Other than with respect to the ELT Members, thirty percent (30%) of the unvested portion of a holder s RSUs (rounded up to the nearest whole share) shall fully vest and the holders of such RSUs will be entitled to receive, in exchange for the cancellation of such portion of the RSUs, an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs.

Other than with respect to the ELT Members, each holder s remaining unvested RSUs will be canceled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested RSUs, to be paid in accordance with the original vesting conditions applicable to the underlying RSUs on the Company s next regular payroll date following the applicable vesting date.

Outstanding unvested RSUs held by the ELT Members shall be canceled and exchanged for the right to receive a total amount equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such RSUs, which shall be paid as follows:

twenty percent (20%) will be paid in cash (subject to any required tax withholdings or deductions);

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forty percent (40%) will be paid in the form of a number of Topco Units consisting of one Class A Preferred Unit and one Class B Common Unit for each whole dollar so exchanged, subject to reduction by a number of Topco Units with a value equal to the sum of (1) the required tax withholdings or deductions on the percentage of the consideration in respect of such unvested RSUs that is cancelled in exchange for Topco Units and (2) the income tax payable with respect to such Topco Units that is in excess of the required tax withholdings or deductions resulting from the cancellation and exchange of such RSUs (with Parent paying to each such ELT Member an amount in cash equal to such excess income tax); and

the remainder will be paid in the form of one Class B Common Unit of Topco for each whole dollar so exchanged, which equity interest will be intended to qualify as a profits interest and which will vest over a five-year period from the Effective Date, with twenty percent (20%) vesting on the one-year anniversary of the Effective Date and the remainder vesting on an equal monthly basis over the following four years subject to continued service to the Surviving Corporation, Parent or its subsidiaries.

Company Restricted Shares

At the Effective Time, all outstanding unvested shares of restricted stock shall be cancelled and exchanged for the right to receive an amount in cash (subject to any required tax withholdings or deductions) equal to the product of (1) the Per Share Merger Consideration, multiplied by (2) the number of shares subject to such unvested shares of restricted stock.

Unless otherwise noted, the payments in respect of such stock options, RSUs and shares of restricted stock will be paid, without interest, as soon as practicable, but in no event later than the date that is the later of five business days following the Effective Time and the Company s first regular payroll date after the Effective Time. If a holder holds multiple stock options or RSU awards, each such award will be divided pro rata in accordance with the divisions set forth above.

Employee Stock Purchase Plan

Until its termination immediately prior to the Effective Time, the ESPP will continue to operate according to its terms, except that commencing on the date of the Merger Agreement, ESPP participants (and those eligible to participate) will not be permitted to increase the rate ofIZE=2>

Shareholders' equity

Capital stock

Preferred authorized 20,000,000 shares ($0.01 par value), none issued

Common authorized 375,000,000 shares ($0.01 par value); issued and outstanding 162,359,906 and 168,979,199 shares in 2012 and 2011, respectively

	1,624	1,690
Additional paid-in capital		2,574
Accumulated other comprehensive loss	(257,850)	(199,292)
Retained earnings	3,597,521	3,590,553
Total shareholders' equity	3,341,295	3,395,525
Noncontrolling interests	85,799	64,381
Total equity	3,427,094	3,459,906
TOTAL LIABILITIES AND EQUITY	$8,276,043	$8,268,364

See Notes to Consolidated Financial Statements.

FLUOR CORPORATION

CONSOLIDATED STATEMENT OF CASH FLOWS

	Year Ended December 31,		
(in thousands)	**2012**	**2011**	**2010**
CASH FLOWS FROM OPERATING ACTIVITIES			
Net earnings	$ 571,067	$ 698,087	$ 441,082
Adjustments to reconcile net earnings to cash provided by operating activities:			
Depreciation of fixed assets	210,441	199,365	189,350
Amortization of intangibles	1,940	2,574	1,234
Gain on sale of a cost method investment	(42,856)		
Impairment of long-lived assets	10,434		6,188
Restricted stock and stock option amortization	37,400	36,757	46,824
Deferred compensation trust	(29,887)	10,449	(28,614)
Deferred compensation obligation	35,961	(12,518)	33,737
Funding of deferred compensation trust			(5,000)
Statute expirations and tax settlements	(13,152)	(13,795)	(10,686)
Deferred taxes	77,444	(17,398)	12,707
Excess tax benefit from stock-based plans	(4,356)	(12,737)	(893)
Retirement plan contributions, net of accrual	(46,877)	(69,581)	22,264
Changes in operating assets and liabilities	(174,515)	46,005	(173,007)
Undistributed earnings of equity method investments	(11,838)	19,225	12,343
Other items	7,172	3,336	3,385
Cash provided by operating activities	628,378	889,769	550,914
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchases of marketable securities	(922,024)	(857,787)	(853,622)
Proceeds from the sales and maturities of marketable securities	1,065,312	724,409	1,291,159
Capital expenditures	(254,747)	(338,167)	(265,410)
Proceeds from disposal of property, plant and equipment	77,772	53,752	53,692
Investments in partnerships and joint ventures	(30,782)	(8,089)	(10,035)
Proceeds from sale of a cost method investment and other assets	55,136	11,016	
Acquisitions	(19,337)	(27,326)	
Other items	(9,677)	5,768	2,646
Cash provided (utilized) by investing activities	(38,347)	(436,424)	218,430
CASH FLOWS FROM FINANCING ACTIVITIES			
Repurchase of common stock	(389,233)	(639,556)	(175,058)
Dividends paid	(128,650)	(87,678)	(90,093)
Proceeds from issuance of 3.375% Senior Notes		495,595	
Debt issuance costs	(3,241)	(4,066)	
Settlement of U.S. Treasury rate lock agreements		(16,778)	
Repayment of convertible debt and notes payable	(7,514)	(77,234)	(13,097)
Distributions paid to noncontrolling interests	(100,623)	(103,659)	(83,656)
Capital contribution by joint venture partners	2,665	22,789	1,000
Repayment of corporate-owned life insurance loans			(32,163)
Taxes paid on vested restricted stock	(11,744)	(18,693)	(6,899)
Stock options exercised	11,592	25,410	14,040
Excess tax benefit from stock-based plans	4,356	12,737	893
Other items	5,766	(4,692)	(4,839)

Cash utilized by financing activities	(616,626)	(395,825)	(389,872)
Effect of exchange rate changes on cash	19,725	(31,106)	68,497
Increase (decrease) in cash and cash equivalents	(6,870)	26,414	447,969
Cash and cash equivalents at beginning of year	2,161,411	2,134,997	1,687,028
Cash and cash equivalents at end of year	$ 2,154,541	$ 2,161,411	$ 2,134,997

See Notes to Consolidated Financial Statements.

FLUOR CORPORATION

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY

(in thousands, except per share amounts)	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Total Shareholders Equity	Noncontrolling Interests	Total Equity
BALANCE AS OF DECEMBER 31, 2009	178,825	$ 1,788	$ 682,304	$ (220,987)	$ 2,842,428	$ 3,305,533	$ 28,360	$ 3,333,893
Net earnings					357,496	357,496	83,586	441,082
Other comprehensive income				44,676		44,676	2,336	47,012
Dividends ($0.50 per share)					(89,967)	(89,967)		(89,967)
Distributions to noncontrolling interests							(83,656)	(83,656)
Partner contributions in noncontrolling interests							1,000	1,000
Stock-based plan activity	495	6	54,851			54,857		54,857
Repurchase of common stock	(3,080)	(31)	(175,027)			(175,058)		(175,058)
Debt conversions	185	1	(539)			(538)		(538)
BALANCE AS OF DECEMBER 31, 2010	176,425	$ 1,764	$ 561,589	$ (176,311)	$ 3,109,957	$ 3,496,999	$ 31,626	$ 3,528,625
Net earnings					593,728	593,728	104,359	698,087
Other comprehensive income (loss)				(22,981)		(22,981)	4,736	(18,245)
Dividends ($0.50 per share)					(86,669)	(86,669)		(86,669)
Distributions to noncontrolling interests							(103,659)	(103,659)
Partner contributions in noncontrolling interests							22,789	22,789
Acquisition and other noncontrolling interest transactions			(534)			(534)	4,530	3,996
Stock-based plan activity	926	11	56,196			56,207		56,207
Repurchase of common stock	(10,050)	(101)	(612,992)		(26,463)	(639,556)		(639,556)
Debt conversions	1,678	16	(1,685)			(1,669)		(1,669)
BALANCE AS OF DECEMBER 31, 2011	168,979	$ 1,690	$ 2,574	$ (199,292)	$ 3,590,553	$ 3,395,525	$ 64,381	$ 3,459,906
Net earnings					456,330	456,330	114,737	571,067
Other comprehensive loss				(58,558)		(58,558)	(948)	(59,506)
Dividends ($0.64 per share)					(107,522)	(107,522)		(107,522)
Distributions to noncontrolling interests							(100,623)	(100,623)
Partner contributions in noncontrolling interests							2,665	2,665
Other noncontrolling interest transactions			(2,673)			(2,673)	5,587	2,914
Stock-based plan activity	771	9	47,412			47,421		47,421
Repurchase of common stock	(7,409)	(75)	(47,318)		(341,840)	(389,233)		(389,233)
Debt conversions	19		5			5		5

BALANCE AS OF DECEMBER 31, 2012	162,360	$ 1,624	$	$	(257,850)	$ 3,597,521	$ 3,341,295	$ 85,799	$ 3,427,094

See Notes to Consolidated Financial Statements.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Major Accounting Policies

Principles of Consolidation

The financial statements include the accounts of Fluor Corporation and its subsidiaries ("the company"). The equity method of accounting is generally used for investment ownership ranging from 20 percent to 50 percent. Investment ownership of less than 20 percent is generally accounted for on the cost method. Joint ventures and partnerships in which the company has the ability to exert significant influence, but does not control, are accounted for using the equity method of accounting. Certain contracts are executed jointly through partnerships and joint ventures with unrelated third parties. The company consolidates certain variable interest entities ("VIEs") in accordance with Accounting Standards Codification ("ASC") 810 (see "14. Variable Interest Entities" below). For joint ventures and partnerships in the construction industry, unless full consolidation is required, the company generally recognizes its proportionate share of revenue, cost and profit in its Consolidated Statement of Earnings and uses the one-line equity method of accounting in the Consolidated Balance Sheet, as allowed under ASC 810-10-45-14. At times, the cost and equity methods of accounting are also used.

All significant intercompany transactions of consolidated subsidiaries are eliminated. Certain amounts in 2011 and 2010 have been reclassified to conform to the 2012 presentation. Management has evaluated all material events occurring subsequent to the date of the financial statements up to the date this annual report is filed on Form 10-K.

Use of Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect reported amounts. These estimates are based on information available as of the date of the financial statements. Therefore, actual results could differ from those estimates.

Cash and Cash Equivalents

Cash and cash equivalents include securities with maturities of three months or less at the date of purchase. Securities with maturities beyond three months are classified as marketable securities within current and noncurrent assets.

Marketable Securities

Marketable securities consist of time deposits placed with investment grade banks with original maturities greater than three months, which by their nature are typically held to maturity, and are classified as such because the company has the intent and ability to hold them to maturity. Held-to-maturity securities are carried at amortized cost. The company also has investments in debt securities which are classified as available-for-sale because the investments may be sold prior to their maturity date. Available-for-sale securities are carried at fair value. The cost of securities sold is determined by using the specific identification method. Marketable securities are assessed for other-than-temporary impairment.

Engineering and Construction Contracts

The company recognizes engineering and construction contract revenue using the percentage-of-completion method, based primarily on contract cost incurred to date compared to total estimated contract cost. Cost of revenue includes an allocation of depreciation and amortization. Customer-furnished materials, labor and equipment and, in certain cases, subcontractor materials, labor and equipment, are included in revenue and cost of revenue when management believes that the company is responsible for the ultimate acceptability of the project. Contracts are generally segmented between

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

types of services, such as engineering and construction, and accordingly, gross margin related to each activity is recognized as those separate services are rendered. Changes to total estimated contract cost or losses, if any, are recognized in the period in which they are determined. Pre-contract costs are expensed as incurred. Revenue recognized in excess of amounts billed is classified as a current asset under contract work in progress. Amounts billed to clients in excess of revenue recognized to date are classified as a current liability under advance billings on contracts. The company anticipates that the majority of incurred cost associated with contract work in progress as of December 31, 2012 will be billed and collected in 2013. The company recognizes revenue, but not profit, for certain significant claims when it is determined that recovery of incurred cost is probable and the amounts can be reliably estimated. Under ASC 605-35-25, these requirements are satisfied when the contract or other evidence provides a legal basis for the claim, additional costs were caused by circumstances that were unforeseen at the contract date and not the result of deficiencies in the company's performance, claim-related costs are identifiable and considered reasonable in view of the work performed, and evidence supporting the claim is objective and verifiable. Cost, but not profit, associated with unapproved change orders is accounted for in revenue when it is probable that the cost will be recovered through a change in the contract price. In circumstances where recovery is considered probable but the revenue cannot be reliably estimated, cost attributable to change orders is deferred pending determination of the impact on contract price. If the requirements for recognizing revenue for claims or unapproved change orders are met, revenue is recorded only to the extent that costs associated with the claims or unapproved change orders have been incurred.

Property, Plant and Equipment

Property, plant and equipment are recorded at cost. Leasehold improvements are amortized over the shorter of their economic lives or the lease terms. Depreciation is calculated using the straight-line method over the following ranges of estimated useful service lives, in years:

	December 31,		Estimated Useful Service	
(cost in thousands)	**2012**	**2011**	**Lives**	
Buildings	$ 287,895	$ 278,029	20	40
Building and leasehold improvements	165,589	141,335	6	20
Machinery and equipment	1,315,756	1,245,770	2	10
Furniture and fixtures	145,551	135,449	2	10

Goodwill and Intangible Assets

In the first quarter of 2012, Financial Accounting Standards Board ("FASB") Accounting Standards Update ("ASU") 2011-08, "Testing Goodwill for Impairment" became effective. ASU 2011-08 allows entities testing goodwill for impairment the option of performing a qualitative assessment before calculating the fair value of a reporting unit (i.e., the first step of the goodwill impairment test). If entities determine, on the basis of qualitative factors, that the fair value of the reporting unit is more likely than not greater than the carrying amount, a quantitative calculation would not be needed. The adoption of ASU 2011-08 did not have a material impact on the company's financial position, results of operations or cash flows.

Goodwill is not amortized but is subject to annual impairment tests. Interim testing for impairment is performed if indicators of potential impairment exist. For purposes of impairment testing, goodwill is allocated to the applicable reporting units based on the current reporting structure. When testing goodwill for impairment quantitatively, the company first compares the fair value of each reporting unit with its carrying amount. If the carrying amount of a reporting unit exceeds its fair value, a second step is

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performed to measure the amount of potential impairment. In the second step, the company compares the implied fair value of reporting unit goodwill with the carrying amount of the reporting unit's goodwill. If the carrying amount of reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized. During 2012, the company completed its annual goodwill impairment test in the first quarter and quantitatively determined that none of the goodwill was impaired because the fair value of each reporting unit substantially exceeded its carrying amount. Goodwill for each of the company's segments is shown in "15. Operations by Business Segment and Geographical Area". The company also performed an interim goodwill impairment test in the fourth quarter of 2012 for the Industrial & Infrastructure segment after the Greater Gabbard Project charge and quantitatively determined that none of the segment's goodwill was impaired. See "13. Contingencies and Commitments" for further discussion of the Greater Gabbard Project charge.

The company has intangible assets with a carrying value of $21 million and $23 million as of December 31, 2012 and 2011, respectively. Intangible assets with indefinite lives are not amortized but are subject to annual impairment tests. Interim testing for impairment is performed if indicators of potential impairment exist. An intangible asset with an indefinite life is impaired if its carrying value exceeds its fair value. As of December 31, 2012, none of the company's intangible assets with indefinite lives were impaired. Intangible assets with finite lives are amortized on a straight-line basis over the useful lives of those assets, ranging from one year to ten years.

Income Taxes

Deferred tax assets and liabilities are recognized for the expected future tax consequences of events that have been recognized in the company's financial statements or tax returns. The company evaluates the realizability of its deferred tax assets and maintains a valuation allowance, if necessary, to reduce certain deferred tax assets to amounts that are more likely than not to be realized. The factors used to assess the likelihood of realization are the company's forecast of future taxable income and available tax planning strategies that could be implemented to realize the net deferred tax assets. Failure to achieve forecasted taxable income in the applicable taxing jurisdictions could affect the ultimate realization of deferred tax assets and could result in an increase in the company's effective tax rate on future earnings.

Income tax positions must meet a more-likely-than-not recognition threshold to be recognized. Income tax positions that previously failed to meet the more-likely-than-not threshold are recognized in the first subsequent financial reporting period in which that threshold is met. Previously recognized tax positions that no longer meet the more-likely-than-not threshold are derecognized in the first subsequent financial reporting period in which that threshold is no longer met. The company recognizes potential interest and penalties related to unrecognized tax benefits within its global operations in income tax expense.

Judgment is required in determining the consolidated provision for income taxes as the company considers its worldwide taxable earnings and the impact of the continuing audit process conducted by various tax authorities. The final outcome of these audits by foreign jurisdictions, the Internal Revenue Service and various state governments could differ materially from that which is reflected in the Consolidated Financial Statements.

Derivatives and Hedging

The company limits exposure to foreign currency fluctuations in most of its engineering and construction contracts through provisions that require client payments in currencies corresponding to the currencies in which cost is incurred. Certain financial exposure, which includes currency and commodity price risk associated with engineering and construction contracts, currency risk associated with intercompany transactions, deposits denominated in non-functional currencies, and risk associated with

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interest rate volatility may subject the company to earnings volatility. In cases where financial exposure is identified, the company generally mitigates the risk by utilizing derivative instruments as hedging instruments that are designated as either fair value or cash flow hedges in accordance with ASC 815, "Derivatives and Hedging." The company formally documents its hedge relationships at inception, including identification of the hedging instruments and the hedged items, as well as its risk management objectives and strategies for undertaking the hedge transaction. The company also formally assesses, both at inception and at least quarterly thereafter, whether the hedging instruments are highly effective in offsetting changes in the fair value of the hedged items. The fair values of all hedging instruments are recognized as assets or liabilities at the balance sheet date. For fair value hedges, the effective portion of the change in the fair value of the hedging instrument is offset against the change in the fair value of the underlying asset or liability through earnings. For cash flow hedges, the effective portion of the derivative instruments' gains or losses due to changes in fair value are recorded as a component of accumulated other comprehensive income (loss) ("AOCI") and are reclassified into earnings when the hedged items settle. Any ineffective portion of a hedging instrument's change in fair value is immediately recognized in earnings. The company does not enter into hedging instruments or engage in hedging activities for speculative purposes.

Under ASC 815, in certain limited circumstances, foreign currency payment provisions could be deemed embedded derivatives. As of December 31, 2012, 2011 and 2010, the company had no significant embedded derivatives in any of its contracts.

The Company offsets fair value amounts for multiple derivative instruments executed with the same counterparty under a master netting arrangement, as permitted by ASC 815.

Concentrations of Credit Risk

Accounts receivable and all contract work in progress are from clients in various industries and locations throughout the world. Most contracts require payments as the projects progress or, in certain cases, advance payments. The company generally does not require collateral, but in most cases can place liens against the property, plant or equipment constructed or terminate the contract, if a material default occurs. The company evaluates the counterparty credit risk of third parties as part of its project risk review process and in determining the appropriate level of reserves. The company maintains adequate reserves for potential credit losses and generally such losses have been minimal and within management's estimates. However, in the third quarter of 2010, the company recognized a pre-tax charge of $95 million related to a bankruptcy court ruling that adversely impacted the collectability of amounts due the company on a completed infrastructure joint venture project in California. In 2011, $11 million of this amount was recovered in a settlement with the bankrupt client.

Cash and marketable securities are deposited with major banks throughout the world. Such deposits are placed with high quality institutions and the amounts invested in any single institution are limited to the extent possible in order to minimize concentration of counterparty credit risk. The company has not incurred any credit risk losses related to these deposits.

The company's counterparties for derivative contracts are large financial institutions selected based on profitability, strength of balance sheet, credit ratings and capacity for timely payment of financial commitments, which are unlikely to be adversely affected by foreseeable events. There are no significant concentrations of credit risk with any individual counterparty related to our derivative contracts.

The company monitors credit risk by continuously assessing the credit quality of its counterparties.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Stock-Based Plans

The company applies the provisions of ASC 718 "Compensation Stock Compensation" in its accounting and reporting for stock-based compensation. ASC 718 requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their fair values. All unvested options outstanding under the company's option plans have grant prices equal to the market price of the company's stock on the dates of grant. Compensation cost for restricted stock and restricted stock units is determined based on the fair market value of the company's stock at the date of grant. Compensation cost for stock appreciation rights is determined based on the change in the fair market value of the company's stock during the period. Stock-based compensation expense is generally recognized over the required service period, or over a shorter period when employee retirement eligibility is a factor.

Comprehensive Income (Loss)

ASC 220 "Comprehensive Income" establishes standards for reporting and displaying comprehensive income and its components in the consolidated financial statements. The company reports the cumulative foreign currency translation adjustments, unrealized gains and losses on available-for-sale securities and derivative contracts, ownership share of equity method investees' other comprehensive income (loss), and adjustments related to defined benefit pension and postretirement plans, as components of accumulated other comprehensive income (loss).

In the first quarter of 2012, the company adopted ASU 2011-05, "Presentation of Comprehensive Income," which amends certain guidance in ASC 220. ASU 2011-05 revises the manner in which entities present comprehensive income in their financial statements. ASU 2011-05 requires entities to report components of comprehensive income in either (a) a continuous statement of comprehensive income or (b) two separate but consecutive statements. As a result of the adoption of ASU 2011-05, the company's financial statements now include a Consolidated Statement of Comprehensive Income.

The company also adopted ASU 2011-12, "Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in ASU 2011-05" in the first quarter of 2012. ASU 2011-12 indefinitely deferred the provisions of ASU 2011-05 that required entities to present reclassification adjustments out of accumulated other comprehensive income by component in both the statement in which net income is presented and the statement in which other comprehensive income ("OCI") is presented.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The tax effects of the components of other comprehensive income (loss) are as follows:

	Year Ended December 31,								
	2012			2011			2010		
(in thousands)	**Before-Tax Amount**	**Tax (Expense) Benefit**	**Net-of-Tax Amount**	**Before-Tax Amount**	**Tax (Expense) Benefit**	**Net-of-Tax Amount**	**Before-Tax Amount**	**Tax (Expense) Benefit**	**Net-of-Tax Amount**
Other comprehensive income (loss):									
Foreign currency translation adjustment	$ 47,780	$ (18,077)	$ 29,703	$ (66,717)	$ 26,599	$ (40,118)	$ 56,576	$ (20,326)	$ 36,250
Ownership share of equity method investees' other comprehensive income (loss)	1,487	(924)	563	(33,492)	9,701	(23,791)	(32,459)	12,668	(19,791)
Defined benefit pension and postretirement plan adjustments	(145,848)	54,693	(91,155)	93,522	(35,071)	58,451	45,239	(16,965)	28,274
Unrealized gain (loss) on derivative contracts	2,369	(1,071)	1,298	(19,420)	7,078	(12,342)	3,237	(821)	2,416
Unrealized gain (loss) on debt securities	135	(50)	85	(711)	266	(445)	(220)	83	(137)
Total other comprehensive income (loss)	(94,077)	34,571	(59,506)	(26,818)	8,573	(18,245)	72,373	(25,361)	47,012
Less: Other comprehensive income (loss) attributable to noncontrolling interests	(948)		(948)	4,736		4,736	2,336		2,336
Other comprehensive income (loss) attributable to Fluor Corporation	$ (93,129)	$ 34,571	$ (58,558)	$ (31,554)	$ 8,573	$ (22,981)	$ 70,037	$ (25,361)	$ 44,676

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The changes in the balances of each after-tax component of accumulated comprehensive income (loss) attributable to Fluor Corporation are as follows:

(in thousands)	Foreign Currency Translation	Ownership Share of Equity Method Investees' Other Comprehensive Income (Loss)	Defined Benefit Pension and Postretirement Plans	Unrealized Gain (Loss) on Derivative Contracts	Unrealized Gain (Loss) on Available-for-Sale Securities	Accumulated Other Comprehensive Income (Loss), Net
Balance as of December 31, 2009	$ 26,187	$	$ (248,294)	$ (331)	$ 1,451	$ (220,987)
Current-period other comprehensive income (loss)	33,914	(19,791)	28,274	2,416	(137)	44,676
Balance as of December 31, 2010	60,101	(19,791)	(220,020)	2,085	1,314	(176,311)
Current-period other comprehensive income (loss)	(44,331)	(23,791)	58,451	(12,865)	(445)	(22,981)
Balance as of December 31, 2011	15,770	(43,582)	(161,569)	(10,780)	869	(199,292)
Current-period other comprehensive income (loss)	30,129	563	(91,155)	1,820	85	(58,558)
Balance as of December 31, 2012	$ 45,899	$ (43,019)	$ (252,724)	$ (8,960)	$ 954	$ (257,850)

During 2012 and 2010, functional currency exchange rates for most of the company's international operations strengthened against the U.S. dollar, resulting in unrealized translation gains. During 2011, functional currency exchange rates for most of the company's international operations weakened against the U.S. dollar, resulting in unrealized translation losses.

Recent Accounting Pronouncements

In February 2013, the FASB issued ASU 2013-02, "Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income," which requires an entity to disclose additional information about reclassification adjustments, including (a) changes in AOCI balances by component and (b) significant items reclassified out of AOCI. ASU 2013-02 is effective for interim and annual reporting periods beginning after December 15, 2012.

In February 2013, the FASB issued ASU 2013-01, "Clarifying the Scope of Disclosures about Offsetting Assets and Liabilities." ASU 2013-01 clarifies which instruments and transactions are subject to the offsetting disclosure requirements established by ASU 2011-11. ASU 2013-01 is effective for interim and annual reporting periods beginning after January 1, 2013 and will be applied on a retrospective basis.

In October 2012, the FASB issued ASU 2012-04, "Technical Corrections and Improvements." The amendments in ASU 2012-04 make technical corrections, clarifications and limited-scope improvements to various topics throughout the Accounting Standards Codification. ASU 2012-04 is effective upon issuance, except for amendments that are subject to transition guidance, which will be effective for interim and annual reporting periods beginning after December 15, 2012. Management does not expect the adoption of ASU 2012-04 to have a material impact on the company's financial position, results of operations or cash flows.

In August 2012, the FASB issued ASU 2012-03, "Technical Amendments and Corrections to SEC Sections," which amends various SEC sections in the Accounting Standards Codification as a result of

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(a) the issuance of SEC Staff Accounting Bulletin No. 114, (b) the issuance of SEC Release No. 33-9250 and (c) corrections related to ASU 2010-22, "Technical Corrections to SEC Paragraphs." ASU 2012-03 was effective upon issuance. The adoption of ASU 2012-03 did not have an impact on the company's financial position, results of operations or cash flows.

In July 2012, the FASB issued ASU 2012-02, "Testing Indefinite-Lived Intangible Assets for Impairment." ASU 2012-02 allows entities testing an indefinite-lived intangible asset for impairment the option of performing a qualitative assessment before calculating the fair value of the asset. If entities determine, on the basis of qualitative factors, that the fair value of the indefinite-lived intangible asset is more likely than not greater than the carrying amount, a quantitative calculation would not be needed. ASU 2012-02 is effective for interim and annual impairment tests performed for fiscal years beginning after September 15, 2012. Management does not expect the adoption of ASU 2012-02 to have a material impact on the company's financial position, results of operations or cash flows.

In December 2011, the FASB issued ASU 2011-11, "Disclosures about Offsetting Assets and Liabilities," which requires an entity to disclose the nature of its rights of setoff and related arrangements associated with its financial instruments and derivative instruments. The objective of ASU 2011-11 is to make financial statements that are prepared under U.S. generally accepted accounting principles ("GAAP") more comparable to those prepared under International Financial Reporting Standards ("IFRS"). The new disclosures will give financial statement users information about both gross and net exposures. ASU 2011-11 is effective for interim and annual reporting periods beginning after January 1, 2013 and will be applied on a retrospective basis.

2. Consolidated Statement of Cash Flows

The changes in operating assets and liabilities as shown in the Consolidated Statement of Cash Flows are comprised of:

	Year Ended December 31,		
(in thousands)	**2012**	**2011**	**2010**
(Increase) decrease in:			
Accounts and notes receivable, net	$ 23,680	$ (43,501)	$ (207,328)
Contract work in progress	29,669	(504,670)	(54,576)
Other current assets	(111,311)	199,412	(104,526)
Other assets	(44,423)	(18,118)	10,081
Increase (decrease) in:			
Trade accounts payable	195,147	320,708	82,016
Advance billings on contracts	(237,497)	48,470	85,535
Accrued liabilities	28,993	60,050	27,446
Other liabilities	(58,773)	(16,346)	(11,655)
Increase (decrease) in cash due to changes in operating assets and liabilities	$ (174,515)	$ 46,005	$ (173,007)
Cash paid during the year for:			
Interest	$ 24,244	$ 28,255	$ 9,761
Income taxes	294,214	176,915	202,341

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

3. Income Taxes

The income tax expense (benefit) included in the Consolidated Statement of Earnings is as follows:

(in thousands)	Year Ended December 31, 2012	2011	2010
Current:			
Federal	$ (133,312)	$ 117,868	$ 22,406
Foreign	226,110	176,116	94,293
State and local	(7,804)	27,143	27,260
Total current	84,994	321,127	143,959
Deferred:			
Federal	87,723	(13,039)	(26,322)
Foreign	(16,645)	(883)	2,355
State and local	6,366	(3,476)	(1,478)
Total deferred	77,444	(17,398)	(25,445)
Total income tax expense	$ 162,438	$ 303,729	$ 118,514

A reconciliation of U.S. statutory federal income tax expense to income tax expense is as follows:

(in thousands)	Year Ended December 31, 2012	2011	2010
U.S. statutory federal tax expense	$ 256,727	$ 350,635	$ 195,859
Increase (decrease) in taxes resulting from:			
State and local income taxes	1,727	15,360	16,255
Other permanent items, net	(4,849)	(7,932)	(10,575)
Worthless stock			(152,409)
Noncontrolling interests	(39,600)	(35,682)	(28,644)
Foreign losses benefited, net	(84,366)		
Valuation allowance, net	85,541	11,014	90,214
Statute expirations and tax authority settlements	(13,152)	(13,795)	(10,686)
Other changes to unrecognized tax positions	(29,740)	(8,973)	(1,075)
Other, net	(9,850)	(6,898)	19,575
Total income tax expense	$ 162,438	$ 303,729	$ 118,514

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Deferred taxes reflect the tax effects of differences between the amounts recorded as assets and liabilities for financial reporting purposes and the amounts recorded for income tax purposes. The tax effects of significant temporary differences giving rise to deferred tax assets and liabilities are as follows:

	December 31,	
(in thousands)	**2012**	**2011**
Deferred tax assets:		
Accrued liabilities not currently deductible:		
Employee compensation and benefits	$ 42,387	$ 62,134
Employee time-off accrual	90,573	83,526
Project and non-project reserves	70,882	132,872
Workers' compensation insurance accruals	8,566	6,269
Tax basis of investments in excess of book basis	18,583	1,632
Net operating loss carryforwards	257,692	172,852
Unrealized currency loss	6,991	11,659
Capital loss carryforwards	3,896	3,896
Other comprehensive loss	149,364	113,957
Other	9,640	24,928
Total deferred tax assets	658,574	613,725
Valuation allowance for deferred tax assets	(230,123)	(144,582)
Deferred tax assets, net	$ 428,451	$ 469,143
Deferred tax liabilities:		
Book basis of property, equipment and other capital costs in excess of tax basis	(44,332)	(57,558)
Residual U.S. tax on unremitted non-U.S. earnings	(40,250)	(23,003)
Other	(14,673)	(13,521)
Total deferred tax liabilities	(99,255)	(94,082)
Deferred tax assets, net of deferred tax liabilities	$ 329,196	$ 375,061

The company had non-U.S. net operating loss carryforwards, related to various jurisdictions, of approximately $1.0 billion as of December 31, 2012. Of the total losses, $974 million can be carried forward indefinitely and $73 million will begin to expire in various jurisdictions starting in 2013.

The company had non-U.S. capital loss carryforwards of approximately $11 million as of December 31, 2012, which can be carried forward indefinitely.

The company maintains a valuation allowance to reduce certain deferred tax assets to amounts that are more likely than not to be realized. The allowances for 2012 and 2011 primarily related to the deferred tax assets established for certain net operating and capital loss carryforwards and certain reserves on investments. The net increase in the valuation allowance during 2012 was primarily due to an increase in net operating losses.

The company conducts business globally and, as a result, the company or one or more of its subsidiaries files income tax returns in the U.S. federal jurisdiction and various state and foreign jurisdictions. In the normal course of business, the company is subject to examination by taxing authorities throughout the world, including such major jurisdictions as Australia, Canada, the Netherlands, South Africa, the United Kingdom and the United States. Although the company believes its reserves for its tax positions are reasonable, the final outcome of tax audits could be materially different, both favorably and

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

unfavorably. With a few exceptions, the company is no longer subject to U.S. federal, state and local, or non-U.S. income tax examinations for years before 2003.

During 2012, the company reached an agreement on certain issues with the U.S. Internal Revenue Service ("IRS") on a tax audit for tax years 2003 through 2005. This agreement resulted in a net reduction in tax expense of $13 million.

The unrecognized tax benefits as of December 31, 2012 and 2011 were $47 million and $215 million, of which $33 million and $78 million, if recognized, would have favorably impacted the effective tax rates at the end of 2012 and 2011, respectively. The company does not anticipate any significant changes to the unrecognized tax benefits within the next twelve months.

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

(in thousands)	2012	2011
Balance at beginning of year	$ 214,998	$ 219,028
Change in tax positions of prior years	(64,214)	9,765
Change in tax positions of current year		
Reduction in tax positions for statute expirations		(874)
Reduction in tax positions for audit settlements	(103,741)	(12,921)
Balance at end of year	$ 47,043	$ 214,998

The company recognizes accrued interest and penalties related to unrecognized tax benefits in income tax expense. The company has $7 million and $14 million in interest and penalties accrued as of December 31, 2012 and 2011.

U.S. and foreign earnings before taxes are as follows:

	Year Ended December 31,		
(in thousands)	2012	2011	2010
United States	$ 279,890	$ 346,016	$ 454,066
Foreign	453,615	655,800	105,530
Total	$ 733,505	$ 1,001,816	$ 559,596

Earnings before taxes in the United States declined in 2012 compared to 2011 principally due to reduced contributions from several completed projects in the Power segment and expenses associated with the company's continued investment in NuScale. Earnings before taxes in foreign jurisdictions decreased in 2012 compared to 2011 primarily due to a pre-tax charge of an unexpected adverse decision in the arbitration proceedings related to the company's claim for additional compensation on the Greater Gabbard Project (see "13. Contingencies and Commitments"). Earnings before taxes in the United States declined in 2011 compared to 2010 principally due to the reduction in project execution activities in the Power segment, as well as reduced contributions from various projects in the Oil & Gas segment. Earnings before taxes in foreign jurisdictions increased significantly in 2011 compared to 2010 primarily due to increased contributions from the Industrial & Infrastructure segment including a reduced level of pre-tax charges for the Greater Gabbard Project (see "13. Contingencies and Commitments") and improved performance in the mining and metals business line.

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4. Retirement Benefits

The company sponsors contributory and non-contributory defined contribution retirement and defined benefit pension plans for eligible employees worldwide. The defined contribution retirement plans are primarily related to domestic and international engineering and construction operations. Contributions to defined contribution retirement plans are based on a percentage of the employee's eligible compensation. The company recognized expense of $144 million, $101 million and $93 million associated with contributions to its defined contribution retirement plans during 2012, 2011 and 2010, respectively. The increase in company contributions during 2012 was principally the result of certain U.S. plan amendments that increased employer contributions to the primary U.S. defined contribution plan and reduced contributions to the U.S. defined benefit plan. The defined benefit pension plans are primarily related to domestic and international engineering and construction salaried employees and U.S. craft employees. Contributions to defined benefit pension plans are at least the minimum annual amounts required by applicable regulations. Payments to retired employees under these plans are generally based upon length of service, age and/or a percentage of qualifying compensation.

Net periodic pension expense for the U.S. and non-U.S. defined benefit pension plans includes the following components:

	U.S. Pension Plan Year Ended December 31,			Non-U.S. Pension Plans Year Ended December 31,		
(in thousands)	2012	2011	2010	2012	2011	2010
Service cost	$ 5,957	$ 37,172	$ 36,668	$ 7,723	$ 8,219	$ 10,509
Interest cost	33,293	36,136	38,417	32,630	34,502	31,328
Expected return on assets	(35,322)	(40,430)	(42,396)	(41,949)	(42,852)	(36,611)
Amortization of prior service cost/(credits)	(114)	(168)				
Recognized net actuarial loss	4,279	13,955	18,765	1,663	5,874	8,203
(Gain on curtailment)/loss on settlement		(618)			1,111	
Net periodic pension expense	$ 8,093	$ 46,047	$ 51,454	$ 67	$ 6,854	$ 13,429

The ranges of assumptions indicated below cover defined benefit pension plans in the United States, the Netherlands, the United Kingdom, Australia, the Philippines (2012 and 2011), and Germany (2011 and 2010) and are based on the economic environment in each host country at the end of each respective annual reporting period. The discount rate assumption for the U.S. defined benefit plan was determined by discounting the expected future benefit payments using yields based on a portfolio of high quality corporate bonds having maturities that are consistent with the expected timing of future payments to plan participants. The discount rates for the non-U.S. defined benefit plans were determined primarily based on a hypothetical yield curve developed from the yields on high quality corporate bonds with durations consistent with the pension obligations in that country. The expected long-term rate of return on asset assumptions utilizing historical returns, correlations and investment manager forecasts are established for

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

each major asset category including public U.S. and international equities, U.S. private equities and fixed income securities.

	U.S. Pension Plan			Non-U.S. Pension Plans		
	December 31,			December 31,		
	2012	2011	2010	2012	2011	2010
For determining projected benefit obligation at year-end:						
Discount rates	4.05%	5.05%	5.65%	3.60-6.00%	3.75-6.75%	5.10-5.50%
Rates of increase in compensation levels	N/A	N/A	4.00%	2.25-9.00%	2.25-9.00%	2.25-4.50%
For determining net periodic cost for the year:						
Discount rates	5.05%	5.65%	6.50%	3.75-6.75%	5.10-9.20%	5.75%
Rates of increase in compensation levels	N/A	4.00%	4.00%	2.25-9.00%	2.25-9.00%	2.25-4.50%
Expected long-term rates of return on assets	5.25%	6.69%	7.50%	5.00-7.00%	5.00-8.00%	5.00-7.00%

The company evaluates the funded status of each of its retirement plans using the above assumptions and determines the appropriate funding level considering applicable regulatory requirements, tax deductibility, reporting considerations and other factors. The funding status of the plans is sensitive to changes in long-term interest rates and returns on plan assets, and funding obligations could increase substantially if interest rates fall dramatically or returns on plan assets are below expectations. Assuming no changes in current assumptions, the company expects to fund approximately $30 million to $60 million for calendar year 2013, which is expected to be in excess of the minimum funding required. If the discount rates were reduced by 25 basis points, plan liabilities for the U.S. and non-U.S. plans would increase by approximately $20 million and $39 million, respectively.

During the first quarter of 2011, the company and its Board of Directors approved an amendment to the U.K. pension plan to freeze the accrual of future service-related benefits for eligible participants on April 1, 2011. Accordingly, the company remeasured the assets and liabilities of the U.K. pension plan and recognized a curtailment accounting event, resulting in a net reduction in the pension obligation of $18 million and an after-tax decrease in accumulated other comprehensive loss of $11 million.

During the third quarter of 2011, the company and its Board of Directors approved an amendment to the U.S. pension plan to freeze the accrual of future service-related benefits for certain eligible participants on December 31, 2011. Accordingly, as of September 30, 2011, the company remeasured the assets and liabilities of the U.S. pension plan and recognized a curtailment accounting event, resulting in a net reduction in the pension obligation of $29 million and an after-tax decrease in accumulated other comprehensive loss of $18 million.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following table sets forth the target allocations and the weighted average actual allocations of plan assets:

	U.S. Plan Assets December 31,			Non-U.S. Plan Assets December 31,		
	Target Allocation	**2012**	**2011**	**Target Allocation**	**2012**	**2011**
Asset category:						
Equity securities	0% - 10%	5%	19%	20% - 45%	35%	33%
Debt securities	90% - 100%	95%	69%	55% - 65%	60%	62%
Other	0% - 10%	0%	12%	5% - 15%	5%	5%
Total		100%	100%		100%	100%

The company's investment strategy is to maintain asset allocations that appropriately address risk within the context of seeking adequate returns. Investment allocations are determined by each plan's investment committee and/or trustees. In the case of certain foreign plans, asset allocations may be impacted by local requirements. Long-term allocation guidelines are set and expressed in terms of a target range allocation for each asset class to provide portfolio management flexibility. Short-term deviations from these allocations may exist from time to time for tactical investment or strategic implementation purposes. During 2012, the company continued to reallocate a larger percentage of its U.S. plan assets into debt securities to reduce volatility and protect the funded status of the plans. As of December 31, 2011, the percentage of U.S. plan assets categorized as "Other" exceeded the target allocation due to the inclusion of temporarily held short-term investment funds that were in the process of being reallocated to debt securities.

Investments in equity securities are utilized to generate long-term capital appreciation to mitigate the effects of increases in benefit obligations resulting from growth in the number of plan participants, inflation, longer life expectancy and salary growth. Investments in debt securities are used to provide stable investment returns while protecting the funding status of the plans. While most of the company's plans are not prohibited from investing in the company's common stock or debt securities, there are no such direct investments at the present time.

Plan assets include investments in common or collective trusts, which offer efficient access to diversified investments across various asset categories. The estimated fair value of the investments in the common or collective trusts represents the underlying net asset value of the shares or units of such funds as determined by the issuer. A redemption notice period of no more than 30 days is required for the plans to redeem certain investments in common or collective trusts. At the present time, there are no other restrictions on how the plans may redeem their investments.

Equity securities are diversified across various industries and are comprised of common and preferred stocks of U.S. and international companies, common or collective trusts with underlying investments in common and preferred stocks and limited partnerships. Publicly traded corporate equity securities are valued based on the last trade or official close of an active market or exchange on the last business day of the plan's year. Securities not traded on the last business day are valued at the last reported bid price. As of December 31, 2012, direct investments in equity securities, excluding common or collective trusts, were concentrated solely in international securities held by the company's non-U.S. pension plans. As of December 31, 2011, the aggregate concentration of direct investments in equity securities for the various plans was approximately 45 percent in U.S. securities and 55 percent in international securities. Limited partnerships are valued at the plan's proportionate share of the estimated fair value of the underlying net assets as determined by the general partners. The limited partnerships are classified as Level 3 investments.

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FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Debt securities are comprised of corporate bonds, government securities and common or collective trusts, with underlying investments in corporate bonds, government and asset backed securities and interest rate swaps. Corporate bonds primarily consist of investment-grade rated bonds and notes, of which no significant concentration exists in any one rating category or industry. Government securities include U.S. and international government bonds, some of which are inflation-indexed. Corporate bonds and government securities are valued based on evaluated prices, which are determined from a compilation of primarily observable market information, broker quotes in non-active markets or similar assets. Securities not traded on the last business day are valued at the last reported bid price. As of December 31, 2012, the investments in corporate bonds and government securities held by the U.S. plan were primarily concentrated in U.S. issuers.

Other is primarily comprised of common collective trusts, short-term investment funds, foreign exchange forward contracts and insurance contracts. Common collective trusts hold underlying investments in commodities, foreign exchange foreign contracts and real estate. Common collective trusts with underlying investments in real estate are classified as Level 3 investments. Insurance contracts are valued based on actuarial assumptions and are also classified as Level 3 investments.

Liabilities primarily consist of foreign currency exchange contracts and obligations to return collateral under securities lending arrangements. The estimated fair value of foreign exchange forward contracts is determined from broker quotes. The estimated fair value of obligations to return collateral under securities lending arrangements are determined based on the last traded price of the underlying securities held as collateral.

The company measures and reports assets and liabilities at fair value utilizing pricing information received from third-party pricing services. The company performs procedures to verify the reasonableness of pricing information received for significant assets and liabilities classified as Level 2.

The fair value hierarchy established by ASC 820, "Fair Value Measurement," prioritizes the use of inputs used in valuation techniques into the following three levels:

Level 1 — quoted prices in active markets for identical assets and liabilities

Level 2 — inputs other than quoted prices in active markets for identical assets and liabilities that are observable, either directly or indirectly

Level 3 — unobservable inputs

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FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following table presents, for each of the fair value hierarchy levels required under ASC 820-10, the plan assets and liabilities of the company's U.S. and non-U.S. defined benefit pension plans that are measured at fair value on a recurring basis as of December 31, 2012 and 2011:

U.S. Pension Plan

	December 31, 2012				**December 31, 2011**			
	Fair Value Hierarchy				**Fair Value Hierarchy**			
(in thousands)	**Total**	**Level 1**	**Level 2**	**Level 3**	**Total**	**Level 1**	**Level 2**	**Level 3**
Assets:								
Equity securities:								
Common and preferred stock	$	$	$	$	$ 95,714	$ 95,714	$	$
Common or collective trusts	18,164		18,164		12,821		12,821	
Limited Partnerships	17,630			17,630	19,314			19,314
Debt securities:								
Common or collective trusts	200,401		200,401					
Corporate bonds	456,123		456,123		393,338		393,338	
Government securities	66,973		66,973		73,079		73,079	
Other:								
Common or collective trusts money market funds	5,285		5,285		79,624		79,624	
Other assets	1,487		1,487		6,322		6,322	
Liabilities:								
Foreign currency exchange contracts and other	(1,598)		(1,598)		(6,338)		(6,338)	
Plan assets measured at fair value, net	$ 764,465	$	$ 746,835	$ 17,630	$ 673,874	$ 95,714	$ 558,846	$ 19,314
Plan assets not measured at fair value, net	2,831				16,680			
Total plan assets, net	$ 767,296				$ 690,554			

Non-U.S. Pension Plans

	December 31, 2012				**December 31, 2011**			
	Fair Value Hierarchy				**Fair Value Hierarchy**			
(in thousands)	**Total**	**Level 1**	**Level 2**	**Level 3**	**Total**	**Level 1**	**Level 2**	**Level 3**
Assets:								
Equity securities:								
Common and preferred stock	$ 88,034	$ 88,034	$	$	$ 83,151	$ 83,151	$	$
Common or collective trusts	218,542		218,542		164,201		164,201	
Debt securities:								
Common or collective trusts	317,494		317,494		468,140		468,140	
Corporate bonds	96,457		96,457		542		542	
Government securities	114,531		114,531		4,263		4,263	
Other:								
Common or collective trusts	45,554		37,754	7,800	32,663		24,572	8,091
Other assets	2,729		2,729		4,661		870	3,791
Liabilities:								
Foreign currency exchange contracts and other	(1,988)		(1,988)					

Plan assets measured at fair value, net	$ 881,353	$ 88,034	$ 785,519	$ 7,800	$ 757,621	$ 83,151	$ 662,588	$ 11,882
Plan assets not measured at fair value, net	4,788				10,340			
Total plan assets, net	$ 886,141				$ 767,961			

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FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following table presents a reconciliation of the beginning and ending balances of the fair value measurements using significant unobservable inputs (Level 3):

(in thousands)	U.S. Pension Plan 2012	U.S. Pension Plan 2011	Non-U.S. Pension Plans 2012	Non-U.S. Pension Plans 2011
Balance at beginning of year	$ 19,314	$ 19,596	$ 11,882	$ 11,686
Actual return on plan assets:				
Assets still held at reporting date	112	909	(291)	32
Assets sold during the period	2,184	477		
Purchases	17			761
Sales	(3,997)	(1,668)	(3,791)	
Settlements				(597)
Balance at end of year	$ 17,630	$ 19,314	$ 7,800	$ 11,882

The following table presents expected benefit payments for the U.S. and non-U.S. defined benefit pension plans:

(in thousands)	U.S. Pension Plan	Non-U.S. Pension Plans
Year Ended December 31,		
2013	$ 76,935	$ 27,529
2014	39,459	28,456
2015	39,400	29,995
2016	41,428	32,231
2017	42,976	34,532
2018 2022	232,646	190,593

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Measurement dates for the company's U.S. and non-U.S. defined benefit pension plans are December 31. The following table sets forth the change in projected benefit obligation, plan assets and funded status of the U.S. and non-U.S. plans:

	U.S. Pension Plan		**Non-U.S. Pension Plans**	
	December 31,		**December 31,**	
(in thousands)	**2012**	**2011**	**2012**	**2011**
Change in projected benefit obligation				
Benefit obligation at beginning of year	$ 677,005	$ 666,973	$ 620,117	$ 626,618
Service cost	5,957	37,172	7,723	8,219
Interest cost	33,293	36,136	32,630	34,502
Employee contributions			3,854	4,145
Currency translation			22,460	(12,521)
Actuarial (gain) loss	77,858	41,359	169,220	(4,773)
Plan amendments	3,736			
Benefits paid	(37,833)	(38,459)	(25,536)	(26,226)
Curtailments		(62,899)		(15,870)
Other	(3,040)	(3,277)	(4,002)	6,023
Projected benefit obligation at end of year	756,976	677,005	826,466	620,117
Change in plan assets				
Plan assets at beginning of year	690,554	618,045	767,961	680,593
Actual return on plan assets	72,615	43,195	107,583	70,972
Company contributions	45,000	71,050	11,830	50,998
Employee contributions			3,854	4,145
Currency translation			23,854	(18,929)
Benefits paid	(37,833)	(38,459)	(25,536)	(26,226)
Other	(3,040)	(3,277)	(3,405)	6,408
Plan assets at end of year	767,296	690,554	886,141	767,961
Funded status	$ 10,320	$ 13,549	$ 59,675	$ 147,844
Amounts recognized in the Consolidated Balance Sheet				
Pension assets included in other assets	$ 10,320	$ 13,549	$ 67,931	$ 151,967
Pension liabilities included in noncurrent liabilities			(8,256)	(4,123)
Accumulated other comprehensive loss (pre-tax)	$ 184,378	$ 144,243	$ 216,856	$ 109,290

During 2013, approximately $6 million for the U.S. plan and $7 million for the non-U.S. plans of the amount of accumulated other comprehensive loss shown above is expected to be recognized as components of net periodic pension expense.

For the defined benefit pension plans in Australia and the Philippines, the projected benefit obligations exceeded the plan assets. In the aggregate, these plans had projected benefit obligations of $32 million and plan assets with a fair value of $23 million.

The total accumulated benefit obligation for the U.S. and non-U.S. plans as of December 31, 2012 was $757 million and $775 million, respectively. The total accumulated benefit obligation for the U.S. and non-U.S. plans as of December 31, 2011 was $677 million and $590 million, respectively. As of December 31, 2012 and 2011, plan assets for each of the company's benefit plans exceeded the accumulated benefit obligation, except for Germany in which the accumulated benefit obligation exceeded plan assets by less than $1 million as of

December 31, 2011.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

In addition to the company's U.S. defined benefit pension plans, the company and certain of its subsidiaries provide health care and life insurance benefits for certain retired U.S. employees. The health care and life insurance plans are generally contributory, with retiree contributions adjusted annually. The accumulated postretirement benefit obligation as of December 31, 2012 and 2011 was determined in accordance with the current terms of the company's health care plans, together with relevant actuarial assumptions and health care cost trend rates projected at annual rates ranging from eight percent in 2013 down to five percent in 2019 and beyond. The effect of a one percent annual increase in these assumed cost trend rates would increase the accumulated postretirement benefit obligation and interest cost by approximately $0.5 million and less than $0.1 million, respectively. The effect of a one percent annual decrease in these assumed cost trend rates would decrease the accumulated postretirement benefit obligation and interest cost by approximately $0.5 million and less than $0.1 million, respectively.

Net periodic postretirement benefit cost includes the following components:

(in thousands)	Year Ended December 31, 2012	2011	2010
Service cost	$	$	$
Interest cost	592	723	951
Expected return on assets			
Amortization of prior service cost			
Recognized net actuarial loss	640	679	827
Net periodic postretirement benefit cost	$ 1,232	$ 1,402	$ 1,778

The following table sets forth the change in the accumulated postretirement benefit obligation:

(in thousands)	Year Ended December 31, 2012	2011
Change in accumulated postretirement benefit obligation		
Benefit obligation at beginning of year	$ 16,828	$ 18,311
Service cost		
Interest cost	592	723
Employee contributions	399	269
Actuarial (gain) loss	(955)	308
Benefits paid	(2,352)	(2,783)
Benefit obligation at end of year	$ 14,512	$ 16,828
Funded status	$ (14,512)	$ (16,828)

Unrecognized net actuarial losses totaling $3 million and $5 million as of December 31, 2012 and 2011, respectively, were classified in accumulated other comprehensive loss. The accumulated postretirement benefit obligation classified in current liabilities is approximately $3 million as of both December 31, 2012 and 2011. The remaining balance of the accumulated postretirement benefit obligation is classified in noncurrent liabilities for both years.

The discount rate used in determining the accumulated postretirement benefit obligation was 2.65 percent as of December 31, 2012 and 3.85 percent as of December 31, 2011. The discount rate used for accumulated postretirement obligation is determined based on the same

considerations discussed above that impact defined benefit plans in the United States. Benefit payments, as offset by retiree contributions, are not expected to change significantly in the future.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The preceding information does not include amounts related to benefit plans applicable to employees associated with certain contracts with the U.S. Department of Energy because the company is not responsible for the current or future funded status of these plans.

In the first quarter of 2012, the company adopted ASU 2011-09, "Disclosures about an Employer's Participation in a Multiemployer Plan," which amends ASC 715-80 by increasing the quantitative and qualitative disclosures an employer is required to provide about its participation in significant multiemployer plans that offer pension or other postretirement benefits. The objective of ASU 2011-09 is to enhance the transparency of disclosures about the significant multiemployer plans in which an employer participates, the level of the employer's participation in those plans, the financial health of the plans, and the nature of the employer's commitments to the plans. The company was not required to make additional disclosures as a result of the adoption of ASU 2011-09.

5. Fair Value of Financial Instruments

In the first quarter of 2012, the company adopted ASU 2011-04, "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS," which amended and expanded the disclosure requirements of ASC 820.

The following table presents, for each of the fair value hierarchy levels required under ASC 820-10, the company's assets and liabilities that are measured at fair value on a recurring basis as of December 31, 2012 and 2011:

	December 31, 2012				December 31, 2011			
		Fair Value Hierarchy				Fair Value Hierarchy		
(in thousands)	Total	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3
Assets[1]:								
Cash and cash equivalents	$ 14,457	$ 14,457[2]	$	$	$ 24,364	$ 24,364[2]	$	$
Marketable securities, current	102,439		102,439[3]		72,845		72,845[3]	
Deferred compensation trusts	80,842	80,842[4]			76,844	76,844[4]		
Marketable securities, noncurrent	318,355		318,355[5]		503,550		503,550[5]	
Derivative assets[6]								
Commodity swap forward contracts	95		95		2,535		2,535	
Foreign currency contracts	640		640		3,105		3,105	
Liabilities[1]:								
Derivative liabilities[6]								
Commodity swap forward contracts	$ 28	$	$ 28	$	$ 53	$	$ 53	$
Foreign currency contracts	2,151		2,151		4,612		4,612	

(1) The company measures and reports assets and liabilities at fair value utilizing pricing information received from third parties. The company performs procedures to verify the reasonableness of pricing information received for significant assets and liabilities classified as Level 2.

(2) Consists of registered money market funds valued at fair value. These investments represent the net asset value of the shares of such funds as of the close of business at the end of the period.

(3) Consists of investments in U.S. agency securities, corporate debt securities and other debt securities which are valued at the last reported sale price on the last business day at the end of the period. Securities not traded on the last business day are valued at the last reported bid price.

(4) Consists of registered money market funds and an equity index fund valued at fair value. These investments, which are trading securities, represent the net asset value of the shares of such funds as of the close of business at the end of the period.

(5)
Consists of investments in U.S. agency securities, U.S. Treasury securities, corporate debt securities and other debt securities with maturities ranging from one year to five years which are valued at the last reported sale price on the last business day at the end of the period. Securities not traded on the last business day are valued at the last reported bid price.

(6)
See "6. Derivatives and Hedging" for the classification of commodity swap forward contracts and foreign currency forward contracts on the Consolidated Balance Sheet. Commodity swap contracts and foreign currency forward contracts are estimated using standard pricing models with market-based inputs, which take into account the present value of estimated future cash flows.

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FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

All of the company's financial instruments carried at fair value are included in the table above. All of the above financial instruments are available-for-sale securities except for those held in the deferred compensation trusts (which are trading securities) and derivative assets and liabilities. The company has determined that there was no other-than-temporary impairment of available-for-sale securities with unrealized losses, and the company expects to recover the entire cost basis of the securities. The available-for-sale securities are made up of the following security types as of December 31, 2012: money market funds of $14 million, U.S. agency securities of $161 million, U.S. Treasury securities of $67 million, corporate debt securities of $184 million, and other securities of $9 million. As of December 31, 2011, available-for-sale securities consisted of money market funds of $24 million, U.S. agency securities of $238 million, U.S. Treasury securities of $99 million, corporate debt securities of $235 million, and other securities of $5 million. The amortized cost of these available-for-sale securities is not materially different from the fair value. During 2012, 2011 and 2010, proceeds from sales and maturities of available-for-sale securities were $523 million, $497 million and $522 million, respectively.

The carrying values and estimated fair values of the company's financial instruments that are not required to be measured at fair value on a recurring basis are as follows:

	Fair Value	December 31, 2012		December 31, 2011	
(in thousands)	**Hierarchy**	**Carrying Value**	**Fair Value**	**Carrying Value**	**Fair Value**
Assets:					
Cash[1]	Level 1	$ 1,343,866	$ 1,343,866	$ 1,225,480	$ 1,225,480
Cash equivalents[2]	Level 2	796,218	796,218	911,567	911,567
Marketable securities, current[3]	Level 2	34,688	34,688	23,593	23,593
Notes receivable, including noncurrent portion[4]	Level 3	34,471	34,471	41,957	41,957
Liabilities:					
3.375% Senior Notes[5]	Level 2	$ 496,164	$ 527,219	$ 495,723	$ 500,254
1.5% Convertible Senior Notes[5]	Level 2	18,472	39,392	19,458	35,647
5.625% Municipal Bonds[5]	Level 2	17,795	17,878	17,777	17,901
Notes Payable, including noncurrent portion[6]	Level 3	8,566	8,566		

(1) Cash consists of bank deposits. Carrying amounts approximate fair value.

(2) Cash equivalents consist of held-to-maturity time deposits with maturities of three months or less at the date of purchase. The carry amounts of these time deposits approximate fair value because of the short-term maturity of these instruments.

(3) Marketable securities, current consist of held-to-maturity time deposits with original maturities greater than three months that will mature within one year. The carrying amounts of these time deposits approximate fair value because of the short-term maturity of these instruments. Amortized cost is not materially different from the fair value.

(4) Notes receivable are carried at net realizable value which approximates fair value. Factors considered by the company in determining the fair value include current interest rates, the term of the note, the credit worthiness of the borrower and any collateral pledged as security. Notes receivable are periodically assessed for impairment.

(5) The fair value of the 3.375% Senior Notes, 1.5% Convertible Senior Notes and 5.625% Municipal Bonds are estimated based on quoted market prices for similar issues.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(6)
Notes payable consist primarily of equipment loans with banks at various interest rates with maturities ranging from less than one year to four years. The carrying value of notes payable approximates fair value. Factors considered by the company in determining the fair value include the company's current credit rating, current interest rates, the term of the note and any collateral pledged as security.

6. Derivatives and Hedging

As of December 31, 2012, the company had total gross notional amounts of $225 million of foreign exchange forward contracts and $1 million of commodity swap forward contracts outstanding relating to engineering and construction contract obligations and intercompany transactions. The foreign exchange forward contracts are of varying duration, none of which extend beyond March 2014. The commodity swap forward contracts are of varying duration, none of which extend beyond August 2014. The impact to earnings due to hedge ineffectiveness was immaterial for the years ended December 31, 2012, 2011 and 2010.

The fair values of derivatives designated as hedging instruments under ASC 815 as of December 31, 2012 and 2011 were as follows:

	Asset Derivatives			Liability Derivatives		
(in thousands)	Balance Sheet Location	December 31, 2012	December 31, 2011	Balance Sheet Location	December 31, 2012	December 31, 2011
Commodity swaps	Other current assets	$ 95	$ 2,451	Other accrued liabilities	$ 15	$
Foreign currency forwards	Other current assets	640	3,105	Other accrued liabilities	2,130	4,612
Commodity swaps	Other assets		84	Noncurrent liabilities	13	53
Foreign currency forwards	Other assets			Noncurrent liabilities	21	
Total derivatives		$ 735	$ 5,640		$ 2,179	$ 4,665

The pre-tax amount of gain (loss) recognized in earnings associated with the hedging instruments designated as fair value hedges for the years ended December 31, 2012, 2011 and 2010 was as follows:

Fair Value Hedges (in thousands)	Location of Gain (Loss)	2012	2011	2010
Foreign currency forwards	Total cost of revenue	$	$	$ 3,465
Foreign currency forwards	Corporate general and administrative expense	(14,236)	15,064	6,864
Total		$ (14,236)	$ 15,064	$ 10,329

The pre-tax amount of gain (loss) recognized in earnings on hedging instruments for the fair value hedges noted in the table above offset the amounts of gain (loss) recognized in earnings on the hedged items in the same locations on the Consolidated Statement of Earnings.

The after-tax amount of gain (loss) recognized in OCI and reclassified from AOCI into earnings associated with the derivative instruments designated as cash flow hedges for the years ended December 31, 2012, 2011 and 2010 was as follows:

	After-Tax Amount of Gain (Loss) Recognized in OCI				After-Tax Amount of Gain (Loss) Reclassified from AOCI into Earnings		
Cash Flow Hedges (in thousands)	2012	2011	2010	Location of Gain (Loss)	2012	2011	2010

Commodity swaps	$ 1,138	$ 1,755	$ 916	Total cost of revenue	$ 1,859	$ 4,052	$ (2,066)
Foreign currency forwards	2,933	(1,544)	(389)	Total cost of revenue	1,441	(1,156)	177
Treasury rate lock agreements		(10,486)		Interest Expense	(1,049)	(306)	
Total	$ 4,071	$ (10,275)	$ 527		$ 2,251	$ 2,590	$ (1,889)

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

During 2012, 2011 and 2010, the company recognized gains of less than $0.1 million, $1.1 million and $3.6 million, respectively, in corporate general and administrative expense related to settled foreign currency forward contracts which were not designated as hedges for accounting purposes. These foreign currency forward contracts mitigated short-term economic exposures.

7. Financing Arrangements

On November 9, 2012, the company entered into a $1.8 billion Revolving Loan and Letter of Credit Facility Agreement ("Credit Facility") that matures in 2017. Borrowings on the Credit Facility are to bear interest at rates based on the London Interbank Offered Rate ("LIBOR") or an alternative base rate, plus an applicable borrowing margin. The Credit Facility may be increased up to an additional $500 million subject to certain conditions, and contains customary financial and restrictive covenants, including a maximum ratio of consolidated debt to tangible net worth of one-to-one and a cap on the aggregate amount of debt of $600 million for the company's subsidiaries. On the same day, the company terminated its $800 million Revolving Loan and Financial Letter of Credit Facility and its $500 million Letter of Credit Facility and all outstanding letters of credit thereunder were assigned or otherwise transferred to the new Credit Facility.

In conjunction with the Credit Facility, the company also amended its existing $1.2 billion Revolving Performance Letter of Credit Facility ("PLOC Facility") dated as of December 14, 2010. The cap on the PLOC Facility for the aggregate amount of debt for the company subsidiaries was increased from $500 million to $600 million subject to certain conditions.

As of December 31, 2012, the company had a combination of committed and uncommitted lines of credit that totaled $4.4 billion. These lines may be used for revolving loans, letters of credit and/or general purposes. Letters of credit are provided in the ordinary course of business primarily to indemnify our clients if we fail to perform our obligations under our contracts. As of December 31, 2012, $1.1 billion in letters of credit were outstanding under these committed and uncommitted lines of credit. As an alternative to letters of credit, surety bonds are also used as a form of credit enhancement.

Consolidated debt consisted of the following:

	December 31,	
(in thousands)	**2012**	**2011**
Current:		
1.5% Convertible Senior Notes	$ 18,472	$ 19,458
Notes Payable	2,320	
Long-Term:		
3.375% Senior Notes	$ 496,164	$ 495,723
5.625% Municipal Bonds	17,795	17,777
Notes Payable	6,246	

In September 2011, the company issued $500 million of 3.375% Senior Notes (the "2011 Notes") due September 15, 2021 and received proceeds of $492 million, net of underwriting discounts and debt issuance costs. Interest on the 2011 Notes is payable semi-annually on March 15 and September 15 of each year, and began on March 15, 2012. The company may, at any time, redeem the 2011 Notes at a redemption price equal to 100 percent of the principal amount, plus a "make whole" premium described in the indenture. Additionally, if a change of control triggering event occurs, as defined by the terms of the indenture, the company will be required to offer to purchase the 2011 Notes at a purchase price equal to 101 percent of their principal amount, plus accrued and unpaid interest, if any, to the date of purchase. The company is generally not limited under the indenture governing the 2011 Notes in its ability to incur

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

additional indebtedness provided the company is in compliance with certain restrictive covenants, including restrictions on liens and restrictions on sale and leaseback transactions.

In February 2004, the company issued $330 million of 1.5% Convertible Senior Notes (the "2004 Notes") due February 15, 2024 and received proceeds of $323 million, net of underwriting discounts. In December 2004, the company irrevocably elected to pay the principal amount of the 2004 Notes in cash. Interest on the 2004 Notes is payable semi-annually on February 15 and August 15 of each year. The 2004 Notes are convertible into shares of the company's common stock par value $0.01 per share, at a conversion rate of 36.2815 shares per each $1,000 principal amount of the 2004 Notes, subject to adjustment as described in the indenture. The 2004 Notes are convertible during any fiscal quarter if the closing price of the company's common stock for at least 20 trading days in the 30 consecutive trading day-period ending on the last trading day of the previous fiscal quarter is greater than or equal to 130 percent of the conversion price in effect on that 30th trading day (the "trigger price"). The trigger price is currently $35.83, but is subject to adjustment as outlined in the indenture. The trigger price condition was satisfied during the fourth quarter of 2012 and 2011 and the 2004 Notes were therefore classified as short-term debt as of December 31, 2012 and 2011.

Holders of the 2004 Notes were entitled to require the company to purchase all or a portion of their 2004 Notes on February 17, 2009 at 100 percent of the principal amount plus accrued and unpaid interest; a de minimis amount of 2004 Notes were tendered for purchase. Holders of the 2004 Notes will again be entitled to have the company purchase their 2004 Notes at the same price on February 15, 2014 and February 15, 2019. The 2004 Notes are currently redeemable at the option of the company, in whole or in part, at 100 percent of the principal amount plus accrued and unpaid interest. In the event of a change of control of the company, each holder may require the company to repurchase the 2004 Notes for cash, in whole or in part, at 100 percent of the principal amount plus accrued and unpaid interest.

Pursuant to the requirements of ASC 260-10, "Earnings per Share," the company includes in the diluted EPS computations, based on the treasury stock method, shares that may be issuable upon conversion of the 2004 Notes. On December 30, 2004, the company irrevocably elected to pay the principal amount of the 2004 Notes in cash, and therefore there is no dilutive impact on EPS unless the average stock price exceeds the conversion price of $27.56. Upon conversion, shares of the company's common stock are issued to satisfy any appreciation between the conversion price and the market price on the date of conversion. During 2012, holders converted $1 million of the 2004 Notes in exchange for the principal balance owed in cash plus 18,899 shares of the company's common stock. During 2011, holders converted $77 million of the 2004 Notes in exchange for the principal balance owed in cash plus 1,678,095 shares of the company's common stock.

The company applies the provisions of ASC 470-20, "Debt with Conversion and Other Options." ASC 470-20 requires the issuer of a convertible debt instrument to separately account for the liability and equity components in a manner that reflects the entity's nonconvertible debt borrowing rate when interest expense is recognized in subsequent periods.

The following table presents information related to the liability and equity components of the 2004 Notes:

	December 31,	
(in thousands)	**2012**	**2011**
Carrying value of the equity component	$ 19,519	$ 19,514
Principal amount and carrying value of the liability component	18,472	19,458

Interest expense for the years ended December 31, 2012, 2011 and 2010 includes original coupon interest of $0.3 million, $0.5 million and $1.5 million, respectively. The effective interest rate on the liability

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

component was 4.375 percent through February 15, 2009 at which time the discount on the liability was fully amortized. The if-converted value is $39 million and is in excess of the principal value as of December 31, 2012.

The Municipal Bonds are due June 1, 2019 with interest payable semi-annually on June 1 and December 1 of each year, commencing December 1, 1999. The bonds are redeemable, in whole or in part, at the option of the company at a redemption price ranging from 100 percent to 102 percent of the principal amount of the bonds on or after June 1, 2009. In addition, the bonds are subject to other redemption clauses, at the option of the holder, should certain events occur, as defined in the offering prospectus. In January 2013, the company redeemed the $18 million principal amount of the bonds at a price of 100 percent of their principal amount.

In the third quarter of 2012, the company assumed various notes payable in connection with the acquisition of an equipment company. The notes payable consist primarily of equipment loans with banks at various interest rates and with maturities ranging from less than one year to four years.

As of December 31, 2012, the company was in compliance with all of the financial covenants related to its debt agreements.

8. Other Noncurrent Liabilities

The company has deferred compensation and retirement arrangements for certain key executives which generally provide for payments upon retirement, death or termination of employment. The deferrals can earn either market-based fixed or variable rates of return, at the option of the participants. As of December 31, 2012 and 2011, $337 million and $326 million, respectively, of obligations related to these plans were included in noncurrent liabilities. To fund these obligations, the company has established non-qualified trusts, which are classified as noncurrent assets. These trusts held primarily company-owned life insurance policies, reported at cash surrender value, and marketable equity securities, reported at fair value. These trusts were valued at $333 million and $303 million as of December 31, 2012 and 2011, respectively. Periodic changes in value of these trust investments, most of which are unrealized, are recognized in earnings, and serve to mitigate changes to obligations included in noncurrent liabilities which are also reflected in earnings.

The company maintains appropriate levels of insurance for business risks, including workers compensation and general liability. Insurance coverages contain various retention amounts for which the company provides accruals based on the aggregate of the liability for reported claims and an actuarially determined estimated liability for claims incurred but not reported. Other noncurrent liabilities include $23 million and $8 million as of December 31, 2012 and 2011, respectively, relating to these liabilities. For certain professional liability risks the company's retention amount under its claims-made insurance policies does not include an accrual for claims incurred but not reported because there is insufficient claims history or other reliable basis to support an estimated liability. The company believes that retained professional liability amounts are manageable risks and are not expected to have a material adverse impact on results of operations or financial position.

9. Stock-Based Plans

The company's executive stock-based plans provide for grants of nonqualified or incentive stock options, restricted stock awards or units, stock appreciation rights and performance-based Value Driver Incentive ("VDI") units. All executive stock-based plans are administered by the Organization and Compensation Committee of the Board of Directors ("Committee") comprised of outside directors, none of whom are eligible to participate in the executive plans. Recorded compensation cost for share-based payment arrangements, which is generally recognized on a straight-line basis, totaled $40 million, $37 million and $30 million for the years ended December 31, 2012, 2011 and 2010, respectively, net of recognized tax benefits of $24 million, $22 million and $17 million for the years ended 2012, 2011 and 2010, respectively.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following table summarizes restricted stock, restricted stock unit and stock option activity:

	Restricted Stock or Restricted Stock Units		Stock Options	
	Number	Weighted Average Grant Date Fair Value Per Share	Number	Weighted Average Exercise Price Per Share
Outstanding as of December 31, 2009	1,633,058	$ 38.28	2,360,482	$ 44.56
Granted	844,706	42.93	1,140,303	42.78
Expired or canceled	(90,921)	40.09	(96,639)	43.20
Vested/exercised	(500,735)	42.16	(368,307)	38.12
Outstanding as of December 31, 2010	1,886,108	$ 39.25	3,035,839	$ 44.71
Granted	291,912	70.59	548,391	70.76
Expired or canceled	(55,159)	52.87	(73,599)	56.66
Vested/exercised	(828,246)	41.44	(611,130)	41.57
Outstanding as of December 31, 2011	1,294,615	$ 44.33	2,899,501	$ 50.00
Granted	450,668	61.70	688,380	62.18
Expired or canceled	(17,109)	58.35	(45,164)	61.57
Vested/exercised	(657,998)	43.46	(309,692)	37.41
Outstanding as of December 31, 2012	1,070,176	$ 51.96	3,233,025	$ 53.64
Options exercisable as of December 31, 2012			1,878,247	$ 49.53
Remaining unvested options outstanding and expected to vest			1,314,135	$ 59.32

As of December 31, 2012, there were a maximum of 3,498,926 shares available for future grant under the company's various stock-based plans. Shares available for future grant include shares which may be granted by the Committee as either stock options, on a share-for-share basis, or restricted stock or restricted stock units, on the basis of one share for each 1.75 available shares.

Restricted stock awards issued under the plans provide that shares awarded may not be sold or otherwise transferred until service-based restrictions have lapsed and any performance objectives have been attained as established by the Committee. Restricted stock units are rights to receive shares subject to certain service and performance conditions as established by the Committee. Generally, upon termination of employment, restricted stock units and restricted shares which have not vested are forfeited. Restricted units and shares granted in 2012, 2011 and 2010 vest ratably over three years. Restricted units and shares granted to the company's directors in 2012, 2011 and 2010 vest or vested on the first anniversary of the grant, except for initial grants that certain directors received upon joining the Board of Directors which vest ratably over a five year period. For the years 2012, 2011 and 2010, recognized compensation expense of $25 million, $25 million and $32 million,

respectively, is included in corporate general and administrative expense related to restricted stock awards and units. The fair value of restricted stock that vested during 2012, 2011 and 2010 was $38 million, $58 million and $22 million, respectively. The balance of unamortized restricted stock expense as of December 31, 2012 was $18 million, which is expected to be recognized over a weighted-average period of 1.6 years.

Option grant amounts and award dates are established by the Committee. Option grant prices are the fair value of the company's common stock at such date of grant. Options normally extend for 10 years and

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

become exercisable over a vesting period determined by the Committee. The options granted in 2012, 2011 and 2010 vest ratably over three years. The aggregate intrinsic value, representing the difference between market value on the date of exercise and the option price, of stock options exercised during 2012, 2011 and 2010 was $7 million, $18 million and $6 million, respectively. The balance of unamortized stock option expense as of December 31, 2012 was $8 million, which is expected to be recognized over a weighted-average period of 1.5 years. Expense associated with stock options for the years ended December 31, 2012, 2011 and 2010, which is included in corporate general and administrative expense in the accompanying Consolidated Statement of Earnings, totaled $13 million, $12 million and $15 million, respectively.

The fair value on the grant date and the significant assumptions used in the Black-Scholes option-pricing model are as follows:

	December 31, 2012	December 31, 2011
Weighted average grant date fair value	$ 19.85	$ 23.41
Expected life of options (in years)	4.5	4.5
Risk-free interest rate	0.8%	2.2%
Expected volatility	41.1%	38.8%
Expected annual dividend per share	$ 0.64	$ 0.50

The computation of the expected volatility assumption used in the Black-Scholes calculations is based on a 50/50 blend of historical and implied volatility.

Information related to options outstanding as of December 31, 2012 is summarized below:

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life (In Years)	Weighted Average Exercise Price Per Share	Number Exercisable	Weighted Average Remaining Contractual Life (In Years)	Weighted Average Exercise Price Per Share
$30.46 - $41.77	354,188	6.2	$ 30.62	354,188	6.2	$ 30.62
$42.11 - $62.50	1,907,374	7.3	49.75	894,368	5.9	43.28
$68.36 - $80.12	971,463	6.7	69.66	629,691	6.0	69.06
	3,233,025	7.0	$ 53.64	1,878,247	6.0	$ 49.53

As of December 31, 2012, options outstanding and options exercisable had an aggregate intrinsic value of approximately $29 million and $24 million, respectively.

Performance-based VDI units issued under the plans are based on target award values. The number of units awarded is determined by dividing the applicable target award value by the closing price of the company's common stock on the date of grant. The number of units is adjusted at the end of each performance period based on the achievement of performance criteria. These awards vest on the first and third anniversaries of the date of grant. The awards may be settled in cash, based on the closing price of the company's common stock on the vesting date, or company stock. In accordance with ASC 718, these awards are classified as liabilities and remeasured at fair value at the end of each reporting period until the awards are settled. Compensation expense of $26 million and $22 million related to these awards is included in corporate general and administrative expense in 2012 and 2011, respectively, of which $17 million was paid in 2012. The balance of unamortized compensation expense associated with VDI units as of December 31, 2012 was $11 million, which is expected to be recognized over a weighted-average period of 2.0 years.

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FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. Earnings Per Share

Basic earnings per share ("EPS") is calculated by dividing net earnings attributable to Fluor Corporation by the weighted average number of common shares outstanding during the period. Potentially dilutive securities include employee stock options, restricted stock units and shares, and the 1.5% Convertible Senior Notes (see "7. Financing Arrangements" above for information about the Convertible Senior Notes). Diluted EPS reflects the assumed exercise or conversion of all dilutive securities using the treasury stock method.

The calculations of the basic and diluted EPS for the years ended December 31, 2012, 2011 and 2010 under the treasury stock method are presented below:

	Year Ended December 31,		
(in thousands, except per share amounts)	**2012**	**2011**	**2010**
Net earnings attributable to Fluor Corporation	$ 456,330	$ 593,728	$ 357,496
Basic EPS:			
Weighted average common shares outstanding	167,121	172,501	178,047
Basic earnings per share	$ 2.73	$ 3.44	$ 2.01
Diluted EPS:			
Weighted average common shares outstanding	167,121	172,501	178,047
Diluted effect:			
Employee stock options and restricted stock units and shares	1,024	1,393	1,380
Conversion equivalent of dilutive convertible debt	346	670	1,561
Weighted average diluted shares outstanding	168,491	174,564	180,988
Diluted earnings per share	$ 2.71	$ 3.40	$ 1.98
Anti-dilutive securities not included above	1,557	824	1,253

During the years ended December 31, 2012, 2011 and 2010, the company repurchased and canceled 7,409,200, 10,050,000 and 3,079,600 shares of its common stock, respectively, under its stock repurchase program for $389 million, $640 million, and $175 million, respectively.

11. Lease Obligations

Net rental expense amounted to approximately $181 million, $166 million and $228 million in the years ended December 31, 2012, 2011 and 2010, respectively. The company's lease obligations relate primarily to office facilities, equipment used in connection with long-term construction contracts and other personal property. Net rental expense in 2012 was higher compared to 2011, primarily due to an increase in rental equipment required to support project execution activities in the Government segment. Net rental expense in 2011 declined due to a reduction in rental equipment required to support project execution activities in the Oil & Gas and Government segments.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The company's obligations for minimum rentals under non-cancelable operating leases are as follows:

Year Ended December 31,	(in thousands)
2013	$ 49,100
2014	51,600
2015	40,300
2016	34,000
2017	30,400
Thereafter	86,800

12. Noncontrolling Interests

The company applies the provisions of ASC 810-10-45, which establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net earnings attributable to the parent and to the noncontrolling interest, changes in a parent's ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated.

As required by ASC 810-10-45, the company has separately disclosed on the face of the Consolidated Statement of Earnings for all periods presented the amount of net earnings attributable to the company and the amount of net earnings attributable to noncontrolling interests. For the years ended December 31, 2012, 2011 and 2010, earnings attributable to noncontrolling interests were $116 million, $106 million and $85 million, respectively, and the related tax effect was $1 million, $2 million and $1 million, respectively. Distributions paid to noncontrolling interests were $101 million, $104 million and $84 million for the years ended December 31, 2012, 2011 and 2010, respectively. Capital contributions by noncontrolling interests were $3 million, $23 million and $1 million for the years ended December 31, 2012, 2011 and 2010, respectively.

13. Contingencies and Commitments

The company and certain of its subsidiaries are involved in various litigation matters. Additionally, the company and certain of its subsidiaries are contingently liable for commitments and performance guarantees arising in the ordinary course of business. The company and certain of its clients have made claims arising from the performance under its contracts. The company recognizes revenue, but not profit, for certain significant claims when it is determined that recovery of incurred costs is probable and the amounts can be reliably estimated. Under ASC 605-35-25, these requirements are satisfied when (a) the contract or other evidence provides a legal basis for the claim, (b) additional costs were caused by circumstances that were unforeseen at the contract date and not the result of deficiencies in the company's performance, (c) claim-related costs are identifiable and considered reasonable in view of the work performed, and (d) evidence supporting the claim is objective and verifiable. Recognized claims against clients amounted to $20 million and $298 million as of December 31, 2012 and 2011, respectively, and are included in contract work in progress in the accompanying Condensed Consolidated Balance Sheet. Claim revenue of $278 million for the Greater Gabbard Project was reversed in the fourth quarter of 2012 when the company no longer believed the recovery of its incurred cost was probable, as result of the unexpected adverse arbitration ruling discussed below. The company periodically evaluates its position and the amounts recognized in revenue with respect to all its claims. Amounts ultimately realized from claims could differ materially from the balances included in the financial statements. The company does not expect that the ultimate resolution of the remaining outstanding matters will have a material adverse effect on its consolidated financial position or results of operations.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

As of December 31, 2012, several matters were in the litigation and dispute resolution process. The following discussion provides a background and current status of these matters:

Greater Gabbard Offshore Wind Farm Project

The company is involved in a dispute in connection with the Greater Gabbard Project, a $1.8 billion lump-sum project to provide engineering, procurement and construction services for the client's offshore wind farm project in the United Kingdom. The primary dispute related to the company's claim for additional compensation for schedule and cost impacts arising from delays in the fabrication of monopiles and transition pieces, along with certain disruption and productivity issues associated with construction activities and weather-related delays that the company anticipated would be recovered in arbitration due to the company's belief the schedule and cost impacts were attributable to the client and other third parties. On November 16, 2012, the company received an unexpected decision from the arbitration panel, dismissing the company's claims for additional compensation. The decision resulted in a pre-tax charge of $416 million against the company's earnings in the fourth quarter, which included claim revenue previously recorded and the remaining liquidated damages withheld by the client and not previously charged against the company's earnings, as well as additional costs expected to be incurred through close-out of the project.

The client has filed a counterclaim against the company seeking to recover approximately $100 million for past and future costs associated with, among other things, monitoring certain monopiles and transition pieces for alleged defects. The counterclaim is currently scheduled for hearing in April 2013. While the ultimate outcome of the hearing is uncertain, the company believes that the monopiles and transition pieces meet applicable performance requirements and therefore does not believe that a loss associated with the counterclaim is probable. As a result, the company has not recorded a charge under ASC 450. To the extent the client's counterclaim is successful, there could be a substantial charge to earnings.

St. Joe Minerals Matters

Since 1995, the company has been named as a defendant in a number of lawsuits alleging injuries resulting from the lead business of St. Joe Minerals Corporation ("St. Joe") and The Doe Run Company ("Doe Run") in Herculaneum, Missouri, which are discontinued operations. The company was named as a defendant in these lawsuits as a result of its ownership or other interests in St. Joe and Doe Run in the period between 1981 and 1994. In 1994, the company sold its interests in St. Joe and Doe Run, along with all liabilities associated with the lead business, pursuant to a sale agreement in which the buyer agreed to indemnify the company for those liabilities. Until December 2010, substantially all the lawsuits were settled and paid by the buyer; and in all cases the company was fully released.

In December 2010, the buyer settled with certain plaintiffs without obtaining a release for the benefit of the company, leaving the company to defend its case with these plaintiffs in the City of St. Louis Circuit Court. In late July 2011, the jury reached an unexpected verdict in this case, ruling in favor of 16 of the plaintiffs and against the company and certain former subsidiaries for $38.5 million in compensatory and economic damages and $320 million in punitive damages. In August 2011, the court entered judgments based on the verdict.

In December 2011, the company appealed the judgments of the court. The company strongly believes that the judgments are not supported by the facts or the law and that it is probable that such judgments will be overturned. Therefore, based upon the present status of this matter, the company does not believe it is probable that a loss will be incurred. Accordingly, the company has not recorded a charge as a result of the judgments. The company has also taken steps to enforce its rights to the indemnification described above.

The company, the buyer and other entities are defendants in 22 additional lawsuits relating to the lead business of St. Joe and Doe Run. The company believes it has strong defenses to these lawsuits and is

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

vigorously defending its position. In addition, the company has filed claims for indemnification under the sale agreement for other matters raised in these lawsuits. While we believe we will be ultimately successful in these various matters, if we were unsuccessful in our appeal of the ruling referenced above or in any of the other lawsuits, or in the prosecution of and collection on our indemnity claims, we could recognize a substantial charge to our earnings.

Embassy Projects

The company constructed 11 embassy projects for the U.S. Department of State under fixed-price contracts. Some of these projects were adversely impacted by higher costs due to schedule extensions, scope changes causing material deviations from the Standard Embassy Design, increased costs to meet client requirements for additional security-cleared labor, site conditions at certain locations, subcontractor and teaming partner difficulties and the availability and productivity of construction labor. All embassy projects were completed prior to 2011.

The company had previously recognized claim revenue of $33 million for outstanding claims on two embassy projects. During the first quarter of 2012, the company received an adverse judgment from the Board of Contract Appeals associated with a claim on one embassy project and, as a result, recorded a charge of $13 million. The company believes that the decision was incorrect and has filed an appeal with the Federal Circuit. Total claims-related costs incurred to date for the last remaining claim, along with requests for equitable adjustment, exceed the amount recorded in claim revenue. All claims have been certified in accordance with federal contracting requirements. A hearing on the final embassy claim was held during the second quarter of 2012 and final written submissions were completed in the fourth quarter of 2012. The results of this hearing are expected during 2013.

Conex International v. Fluor Enterprises, Inc.

In November 2006, a Jefferson County, Texas, jury reached an unexpected verdict in the case of Conex International ("Conex") v. Fluor Enterprises Inc. ("FEI"), ruling in favor of Conex and awarding $99 million in damages related to a 2001 construction project.

In 2001, Atofina (now part of Total Petrochemicals Inc.) hired Conex International to be the mechanical contractor on a project at Atofina's refinery in Port Arthur, Texas. FEI was also hired to provide certain engineering advice to Atofina on the project. There was no contract between Conex and FEI. Later in 2001 after the project was complete, Conex and Atofina negotiated a final settlement for extra work on the project. Conex sued FEI in September 2003, alleging damages for interference and misrepresentation and demanding that FEI should pay Conex the balance of the extra work charges that Atofina did not pay in the settlement. Conex also asserted that FEI interfered with Conex's contract and business relationship with Atofina. The jury verdict awarded damages for the extra work and the alleged interference.

The company appealed the decision and the judgment against the company was reversed in its entirety in December 2008. Both parties appealed the decision to the Texas Supreme Court, and the court denied both petitions. The company requested rehearing on two issues to the Texas Supreme Court, and that request was denied. The Texas Supreme Court remanded the matter back to the trial court for a new trial. The matter was stayed, pending resolution of certain technical issues associated with the 2011 bankruptcy filing by the plaintiff's parent. These issues have been resolved. The matter has been remanded to the court in Jefferson County, Texas. Based upon the present status of this matter, the company does not believe that there is a reasonable possibility that a loss will be incurred.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Guarantees

In the ordinary course of business, the company enters into various agreements providing performance assurances and guarantees to clients on behalf of certain unconsolidated and consolidated partnerships, joint ventures and other jointly executed contracts. These agreements are entered into primarily to support the project execution commitments of these entities. The performance guarantees have various expiration dates ranging from mechanical completion of the facilities being constructed to a period extending beyond contract completion in certain circumstances. The maximum potential payment amount of an outstanding performance guarantee is the remaining cost of work to be performed by or on behalf of third parties under engineering and construction contracts. Amounts that may be required to be paid in excess of estimated cost to complete contracts in progress are not estimable. For cost reimbursable contracts, amounts that may become payable pursuant to guarantee provisions are normally recoverable from the client for work performed under the contract. For lump-sum or fixed-price contracts, the performance guarantee amount is the cost to complete the contracted work, less amounts remaining to be billed to the client under the contract. Remaining billable amounts could be greater or less than the cost to complete. In those cases where costs exceed the remaining amounts payable under the contract, the company may have recourse to third parties, such as owners, co-venturers, subcontractors or vendors for claims. Performance guarantees outstanding as of December 31, 2012 were estimated to be $3.8 billion. The company assessed its performance guarantee obligation as of December 31, 2012 and 2011 in accordance with ASC 460, "Guarantees" and the carrying value of its liability was not material.

Financial guarantees, made in the ordinary course of business in certain limited circumstances, are entered into with financial institutions and other credit grantors and generally obligate the company to make payment in the event of a default by the borrower. These arrangements generally require the borrower to pledge collateral to support the fulfillment of the borrower's obligation.

Other Matters

The company's operations are subject to and affected by federal, state and local laws and regulations regarding the protection of the environment. The company maintains reserves for potential future environmental cost where such obligations are either known or considered probable, and can be reasonably estimated.

The company believes, based upon present information available to it, that its reserves with respect to future environmental cost are adequate and such future cost will not have a material effect on the company's consolidated financial position, results of operations or liquidity. However, the imposition of more stringent requirements under environmental laws or regulations, new developments or changes regarding site cleanup cost or the allocation of such cost among potentially responsible parties, or a determination that the company is potentially responsible for the release of hazardous substances at sites other than those currently identified, could result in additional expenditures, or the provision of additional reserves in expectation of such expenditures.

14. Variable Interest Entities

In the normal course of business, the company forms partnerships or joint ventures primarily for the execution of single contracts or projects. The majority of these partnerships or joint ventures are characterized by a 50 percent or less, noncontrolling ownership or participation interest, with decision making and distribution of expected gains and losses typically being proportionate to the ownership or participation interest. Many of the partnership and joint venture agreements provide for capital calls to fund operations, as necessary. Such funding is infrequent and is not anticipated to be material. The company accounts for its partnerships and joint ventures in accordance with ASC 810.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

In accordance with ASC 810, the company assesses its partnerships and joint ventures at inception to determine if any meet the qualifications of a VIE. The company considers a partnership or joint venture a VIE if either (a) the total equity investment is not sufficient to permit the entity to finance its activities without additional subordinated financial support, (b) characteristics of a controlling financial interest are missing (either the ability to make decisions through voting or other rights, the obligation to absorb the expected losses of the entity or the right to receive the expected residual returns of the entity), or (c) the voting rights of the equity holders are not proportional to their obligations to absorb the expected losses of the entity and/or their rights to receive the expected residual returns of the entity, and substantially all of the entity's activities either involve or are conducted on behalf of an investor that has disproportionately few voting rights. Upon the occurrence of certain events outlined in ASC 810, the company reassesses its initial determination of whether the partnership or joint venture is a VIE. The majority of the company's partnerships and joint ventures qualify as VIEs because the total equity investment is typically nominal and not sufficient to permit the entity to finance its activities without additional subordinated financial support.

The company also performs a qualitative assessment of each VIE to determine if the company is its primary beneficiary, as required by ASC 810. The company concludes that it is the primary beneficiary and consolidates the VIE if the company has both (a) the power to direct the economically significant activities of the entity and (b) the obligation to absorb losses of, or the right to receive benefits from, the entity that could potentially be significant to the VIE. The company considers the contractual agreements that define the ownership structure, distribution of profits and losses, risks, responsibilities, indebtedness, voting rights and board representation of the respective parties in determining if the company is the primary beneficiary. The company also considers all parties that have direct or implicit variable interests when determining whether it is the primary beneficiary. As required by ASC 810, management's assessment of whether the company is the primary beneficiary of a VIE is continuously performed.

In most cases, when the company is not the primary beneficiary and not required to consolidate the VIE, the proportionate consolidation method of accounting is used for joint ventures and partnerships in the construction industry, whereby the company recognizes its proportionate share of revenue, cost and profit in its Consolidated Statement of Earnings and uses the one-line equity method of accounting in the Consolidated Balance Sheet as allowed under ASC 810-10-45-14. The equity and cost methods of accounting for the investments are also used, depending on the company's respective ownership interest, amount of influence over the VIE and the nature of services provided by the VIE. The net carrying value of the unconsolidated VIEs classified under "Investments" and "Other accrued liabilities" in the Consolidated Balance Sheet was a net asset of $22 million and $50 million as of December 31, 2012 and 2011, respectively. Some of the company's VIEs have debt; however, such debt is typically non-recourse in nature. The company's maximum exposure to loss as a result of its investments in unconsolidated VIEs is typically limited to the aggregate of the carrying value of the investment and future funding commitments. Future funding commitments as of December 31, 2012 for the unconsolidated VIEs were $41 million.

In some cases, the company is required to consolidate certain VIEs. As of December 31, 2012, the carrying values of the assets and liabilities associated with the operations of the consolidated VIEs were $1.0 billion and $664 million, respectively. As of December 31, 2011, the carrying values of the assets and liabilities associated with the operations of the consolidated VIEs were $1.1 billion and $774 million, respectively. The assets of a VIE are restricted for use only for the particular VIE and are not available for general operations of the company.

The company has agreements with certain VIEs to provide financial or performance assurances to clients. See "13. Contingencies and Commitments" for a further discussion of such agreements. None of the VIEs are individually material to the company's results of operations, financial position or cash flows except for the Fluor SKM joint venture, which is material to the company's revenue and is discussed below under " Fluor SKM Joint Venture." Below is a discussion of some of the company's more significant or unique VIEs and related accounting considerations.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Interstate 95 High-Occupancy Toll ("HOT") Lanes Project

In August 2012, the company was awarded the $925 million Interstate 95 HOT lanes project in Virginia. The project is a public-private partnership between the Virginia Department of Transportation ("VDOT") and 95 Express Lanes, LLC, a joint venture in which the company has a 10 percent interest and Transurban (USA) Inc. has a 90 percent interest. Under the agreement, VDOT owns and oversees the addition and extension of HOT lanes, interchange improvements and construction of commuter parking lots on 29 miles of I-95 in northern Virginia. As concessionaire, 95 Express Lanes, LLC will develop, design, finance, construct, maintain and operate the improvements and HOT lanes under a 75-year concession agreement. The construction is being financed primarily through grant funding from VDOT, private activity bonds, a non-recourse loan from the federal Transportation Infrastructure Finance Innovation Act ("TIFIA"), which is administered by the U.S. Department of Transportation, and equity contributions from the joint venture members.

The construction of the improvements and HOT lanes are being performed by a construction joint venture in which the company has a 65 percent interest and Lane Construction has a 35 percent interest ("Fluor-Lane 95"). Transurban (USA) Inc. will perform the operations and maintenance upon completion of the improvements and commencement of operations of the toll lanes. The company has evaluated its interest in Fluor-Lane 95 and has determined that it is the primary beneficiary. Accordingly, the company consolidates the accounts of Fluor-Lane 95. As of December 31, 2012, the company's financial statements include assets of $80 million and liabilities of $68 million for Fluor-Lane 95.

The company has also evaluated its interest in 95 Express Lanes, LLC and has determined that it is not the primary beneficiary. Based on contractual documents, the company's maximum exposure to loss relating to its investment in Fluor-Transurban is its future funding commitment of $18 million, plus its investment balance of $11 million. The company will never have repayment obligations associated with any of the debt because it is non-recourse to the joint venture members. The company accounts for its ownership interest in 95 Express Lanes, LLC under the equity method of accounting.

Eagle P3 Commuter Rail Project

In August 2010, the company was awarded its $1.7 billion share of the Eagle P3 Commuter Rail Project in the Denver metropolitan area. The project is a public-private partnership between the Regional Transportation District in Denver, Colorado ("RTD") and Denver Transit Partners ("DTP"), a wholly-owned subsidiary of Denver Transit Holdings LLC ("DTH"), a joint venture in which the company has a 10 percent interest, with two additional partners each owning a 45 percent interest. Under the agreement, RTD owns and oversees the addition of railways, facilities and rolling stock for three new commuter and light rail corridors in the Denver metropolitan area. RTD is funding the construction of the railways and facilities through the issuance of $398 million of private activity bonds, as well as from various other sources, including federal grants. RTD advanced the proceeds of the private activity bonds to DTP as a loan that is non-recourse to the company and will be repaid to RTD over the life of the concession agreement. DTP, as concessionaire, will design, build, finance, operate and maintain the railways, facilities and rolling stock under a 35-year concession agreement. The company has determined that DTH is a VIE for which the company is not the primary beneficiary. DTH is accounted for under the equity method of accounting. Based on contractual documents, the company's maximum exposure to loss relating to its investments in DTH is limited to its future funding commitment of $5 million, plus the carrying value of its investment of less than $1 million.

The construction of the railways and facilities is being performed through subcontract arrangements by Denver Transit Systems ("DTS") and Denver Transit Constructors ("DTC"), construction joint ventures in which the company has an ownership interest of 50 percent and 40 percent, respectively. The company has determined that DTS and DTC are VIEs for which the company is the primary beneficiary.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Therefore, the company consolidates the accounts of DTS and DTC in its financial statements. As of December 31, 2012, the combined carrying values of the assets and liabilities of DTS and DTC were $120 million and $79 million, respectively. As of December 31, 2011, the combined carrying values of the assets and liabilities of DTS and DTC were $133 million and $113 million, respectively. The company has provided certain performance guarantees on behalf of DTS.

Fluor SKM Joint Venture

In 2008, the Fluor SKM joint venture was awarded the initial program management, engineering and construction management contract for the expansion of port, rail and mine facilities for BHP Billiton Limited's iron ore mining project in the Pilbara region of Western Australia. Fluor SKM is a joint venture between Fluor Australia Pty Ltd and Sinclair Knight Merz ("Fluor SKM") in which Fluor Australia Pty Ltd has a 55 percent interest and Sinclair Knight Merz has the remaining 45 percent interest.

The company has evaluated its interest in Fluor SKM and has determined that the company is the primary beneficiary. Accordingly, the company consolidates the accounts of Fluor SKM. For the years ended December 31, 2012, 2011 and 2010, the company's results of operations included revenue of $3.4 billion, $1.8 billion and $2.4 billion, respectively. As of December 31, 2012, the carrying values of the assets and liabilities of the Fluor SKM joint venture were $107 million and $123 million, respectively. As of December 31, 2011, the carrying values of the assets and liabilities of the Fluor SKM joint venture were $92 million and $112 million, respectively.

Interstate 495 Capital Beltway Project

In December 2007, the company was awarded the $1.3 billion Interstate 495 Capital Beltway HOT lanes project in Virginia. The project is a public-private partnership between VDOT and Capital Beltway Express LLC, a joint venture in which the company has a 10 percent interest and Transurban (USA) Inc. has a 90 percent interest ("Fluor-Transurban"). Under the agreement, VDOT owns and oversees the addition of traffic lanes, interchange improvements and construction of HOT lanes on 14 miles of the I-495 Capital Beltway in northern Virginia. Fluor-Transurban, as concessionaire, will develop, design, finance, construct, maintain and operate the improvements and HOT lanes under an 80-year concession agreement. The construction is being financed through grant funding from VDOT, non-recourse borrowings from issuance of public tax-exempt bonds, a non-recourse loan from TIFIA, which is administered by the U.S. Department of Transportation and equity contributions from the joint venture members.

The construction of the improvements and HOT lanes are being performed by a construction joint venture in which the company has a 65 percent interest and Lane Construction has a 35 percent interest ("Fluor-Lane"). Transurban (USA) Inc. will perform the operations and maintenance upon completion of the improvements and commencement of operations of the toll lanes. The company has evaluated its interest in Fluor-Lane and has determined that it is the primary beneficiary. Accordingly, the company consolidates the accounts of Fluor-Lane. As of December 31, 2012, the company's financial statements include assets of $53 million and liabilities of $49 million for Fluor-Lane. As of December 31, 2011, the company's financial statements include assets of $153 million and liabilities of $149 million for Fluor-Lane.

The company has also evaluated its interest in Fluor-Transurban and has determined that it is not the primary beneficiary. Based on contractual documents, the company's maximum exposure to loss relating to its investment in Fluor-Transurban is its future funding commitment of $4 million, plus its investment balance of $9 million. The company will never have repayment obligations associated with any of the debt because it is non-recourse to the joint venture members. The company accounts for its ownership interest in Fluor-Transurban under the equity method of accounting.

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

15. Operations by Business Segment and Geographical Area

The company provides professional services in the fields of engineering, procurement, construction and maintenance, as well as project management, on a global basis and serves a diverse set of industries worldwide. The five principal business segments are: Oil & Gas, Industrial & Infrastructure, Government, Global Services and Power, as discussed further below.

The Oil & Gas segment provides design, engineering, procurement, construction and project management professional services for upstream oil and gas production, downstream refining, offshore production, chemicals and petrochemicals markets. The revenue of a single customer and its affiliates of the Oil & Gas segment amounted to 11 percent and 13 percent of the company's consolidated revenue during the year ended December 31, 2012 and 2011, respectively.

The Industrial & Infrastructure segment provides design, engineering, procurement and construction services to the transportation, wind power, mining and metals, life sciences, manufacturing, commercial and institutional, telecommunications, microelectronics and healthcare sectors. The revenue of a single customer and its affiliates of both the Industrial & Infrastructure and Global Services segments amounted to 13 percent and 12 percent of the company's consolidated revenue during the year ended December 31, 2012 and 2010, respectively.

The Government segment provides engineering, construction, logistics support, contingency response, and management and operations services to the U.S. government. The percentage of the company's consolidated revenue from work performed for various agencies of the U.S. government was 12 percent, 14 percent and 15 percent during the years ended December 31, 2012, 2011 and 2010, respectively.

The Global Services segment includes operations and maintenance activities, small capital project engineering and execution, site equipment and tool services, industrial fleet services, plant turnaround services and supply chain solutions. In addition, Global Services provides temporary staffing of technical, professional and administrative personnel for projects in all segments.

The Power segment provides engineering, procurement, construction, program management, start-up and commissioning, operations and maintenance and technical services to the gas fueled, solid fueled, environmental compliance, renewables, nuclear and power services markets. The Power segment includes the operations of NuScale Power, LLC, the Oregon-based designer of small modular nuclear reactors acquired by the company in 2011, which is considered a separate operating segment of the company.

The reportable segments follow the same accounting policies as those described in Major Accounting Policies. Management evaluates a segment's performance based upon segment profit. Intersegment revenue is insignificant. The company incurs cost and expenses and holds certain assets at the corporate level which relate to its business as a whole. Certain of these amounts have been charged to the company's business segments by various methods, largely on the basis of usage.

Engineering services for international projects are often performed within the United States or a country other than where the project is located. Revenue associated with these services has been classified within the geographic area where the work was performed.

Effective January 1, 2013, the company implemented certain organizational changes that will impact the composition of the company's reportable segments in 2013. The company's operations and maintenance activities, previously included in the Global Services segment, have been integrated into the Industrial & Infrastructure segment. Additionally, the Global Services segment will now include activities associated with the company's efforts to grow its fabrication capabilities and the operations of a new procurement entity, Acqyre, currently being formed to provide strategic sourcing solutions to third parties.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Operating Information by Segment

(in millions)	**Year Ended December 31,** **2012**	**2011**	**2010**
External revenue			
Oil & Gas	$ 9,513.9	$ 7,961.7	$ 7,740.0
Industrial & Infrastructure	12,195.7	9,700.4	6,867.2
Government	3,304.7	3,398.2	3,038.0
Global Services	1,721.7	1,577.7	1,508.6
Power	841.1	743.4	1,695.5
Total external revenue	$ 27,577.1	$ 23,381.4	$ 20,849.3
Segment profit (loss)			
Oil & Gas	$ 334.7	$ 275.6	$ 344.0
Industrial & Infrastructure	124.3	389.3	(169.7)
Government	149.7	145.5	142.2
Global Services	177.6	151.8	133.3
Power	(16.9)	81.1	170.9
Total segment profit	$ 769.4	$ 1,043.3	$ 620.7
Depreciation and amortization of fixed assets			
Oil & Gas	$	$	$
Industrial & Infrastructure	2.4	4.8	4.5
Government	12.9	10.8	7.4
Global Services	124.6	117.5	108.3
Power	0.9		
Corporate and other	69.6	66.3	69.2
Total depreciation and amortization of fixed assets	$ 210.4	$ 199.4	$ 189.4
Capital expenditures			
Oil & Gas	$	$	$
Industrial & Infrastructure	0.5		5.9
Government	5.7	10.7	16.2
Global Services	184.5	248.6	185.5
Power	3.6		
Corporate and other	60.4	78.9	57.8
Total capital expenditures	$ 254.7	$ 338.2	$ 265.4
Total assets			
Oil & Gas	$ 1,704.4	$ 1,245.0	
Industrial & Infrastructure	561.0	943.6	
Government	827.2	799.6	

Global Services		959.6		934.7
Power		120.6		191.1
Corporate and other		4,103.2		4,154.4
Total assets	$	8,276.0	$	8,268.4

Goodwill				
Oil & Gas	$	7.1	$	7.1
Industrial & Infrastructure		12.2		12.2
Government		46.5		46.5
Global Services		24.9		19.8
Power		10.6		10.3
Total goodwill	$	101.3	$	95.9

Industrial & Infrastructure. Segment profit for 2012, 2011 and 2010 was impacted by pre-tax charges for the Greater Gabbard Project totaling $416 million, $60 million and $343 million, respectively. Segment profit for 2012 also included a pre-tax gain of $43 million on the sale of the company's unconsolidated interest in a telecommunications company located in the United Kingdom. Segment

FLUOR CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

profit for 2010 also included a pre-tax charge of $95 million for a completed infrastructure joint venture project in California. The Greater Gabbard project is also discussed further in "13. Contingencies and Commitments" above.

Power. Segment profit for 2012 and 2011 included research and development expenses of $63 million and $7 million, respectively, associated with the operations of NuScale. Segment profit for 2010 included pre-tax charges of $91 million on a gas-fired power project in Georgia.

Enterprise-Wide Disclosures

	External Revenue Year Ended December 31,			**Total Assets As of December 31,**	
(in millions)	**2012**	**2011**	**2010**	**2012**	**2011**
United States	$ 7,021.4	$ 6,959.8	$ 7,640.8	$ 4,410.3	$ 4,653.4
Canada	5,371.9	4,127.5	2,422.0	925.9	709.9
Asia Pacific (includes Australia)	6,349.7	4,395.5	3,325.4	1,140.3	957.1
Europe	1,632.9	1,736.8	3,030.1	1,196.2	1,287.5
Central and South America	3,526.5	2,822.5	1,687.1	260.2	328.3
Middle East and Africa	3,674.7	3,339.3	2,743.9	343.1	332.2
Total	$ 27,577.1	$ 23,381.4	$ 20,849.3	$ 8,276.0	$ 8,268.4

Reconciliation of Segment Information to Consolidated Amounts

	Year Ended December 31,		
(in millions)	**2012**	**2011**	**2010**
Total segment profit	$ 769.4	$ 1,043.3	$ 620.7
Corporate general and administrative expense	(151.0)	(163.5)	(156.3)
Interest income (expense), net	(0.5)	16.4	10.6
Earnings attributable to noncontrolling interests	115.6	105.6	84.6
Earnings before taxes	$ 733.5	$ 1,001.8	$ 559.6

Non-Operating (Income) and Expense

Non-operating expense items of $11.7 million, $13.5 million and $1.6 million were included in corporate general and administrative expense in 2012, 2011 and 2010, respectively. Non-operating expenses in 2012 and 2011 primarily included expenses associated with previously divested operations.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

16. Quarterly Financial Data (Unaudited)

The following is a summary of the quarterly results of operations:

(in millions, except per share amounts)	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Year ended December 31, 2012				
Revenue	$ 6,290.1	$ 7,128.2	$ 7,136.1	$ 7,022.7
Cost of revenue	6,014.2	6,809.8	6,829.8	7,038.3
Earnings (loss) before taxes	240.8	288.2	264.5	(60.0)
Net earnings	177.2	192.5	172.3	29.1
Net earnings (loss) attributable to Fluor Corporation	154.9	161.2	144.6	(4.4)
Earnings (loss) per share				
Basic	$ 0.92	$ 0.96	$ 0.87	$ (0.03)
Diluted	0.91	0.95	0.86	(0.03)
Year ended December 31, 2011				
Revenue	$ 5,057.8	$ 6,033.9	$ 6,037.6	$ 6,252.1
Cost of revenue	4,787.5	5,727.0	5,775.5	5,942.5
Earnings before taxes	241.1	281.2	230.9	248.6
Net earnings	161.2	191.5	161.6	183.8
Net earnings attributable to Fluor Corporation	139.7	165.5	135.4	153.1
Earnings per share				
Basic	$ 0.79	$ 0.95	$ 0.79	$ 0.91
Diluted	0.78	0.94	0.78	0.90

Net earnings in the fourth quarter of 2012 and the third quarter of 2011 were impacted by pre-tax charges for the Greater Gabbard Project totaling $416 million (or $1.61 per diluted share) and $38 million (or $0.14 per diluted share), respectively. The Greater Gabbard Project is discussed in "13. Contingencies and Commitments" above. Net earnings in the fourth quarter of 2012 also included a pre-tax gain of $43 million (or $0.17 per diluted share) on the October 2012 sale of the company's unconsolidated interest in a telecommunications company located in the United Kingdom and tax benefits of $43 million ($0.26 per diluted share) associated with the net reduction of tax reserves for various domestic and international disputed items and an IRS settlement. The tax benefits are disclosed in "3. Income Taxes" above.