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# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, DC 20549**

# FORM 10-Q

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

**For the quarterly period ended September 30, 2020**

**OR**

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

**For the transition period from to**

**Commission file number 1-32600**

# TUCOWS INC.

(Exact Name of Registrant as Specified in Its Charter)

| **Pennsylvania** | **23-2707366** |
|---|---|
| (State or Other Jurisdiction of Incorporation or Organization) | (I.R.S. Employer Identification No.) |

**96 Mowat Avenue,**
**Toronto, Ontario M6K 3M1, Canada**
(Address of Principal Executive Offices) (Zip Code)

**(416) 535-0123**
(Registrant's Telephone Number, Including Area Code)

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

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---|---|---|
| Common Stock | TCX | NASDAQ |

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

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

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

| | |
|---|---|
| Large accelerated filer ☐ | Accelerated filer ☒ |
| Non-accelerated filer ☐ | Smaller reporting company ☐ |
| | Emerging Growth company ☐ |

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

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

As of November 2, 2020, there were 10,606,267 outstanding shares of common stock, no par value, of the registrant.

**TUCOWS INC.**
**Form 10-Q Quarterly Report**
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**TRADEMARKS, TRADE NAMES AND SERVICE MARKS**

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**PART I. FINANCIAL INFORMATION**
**Item 1. Consolidated Financial Statements**
**Tucows Inc.**
**Consolidated Balance Sheets**

**(Dollar amounts in thousands of U.S. dollars)**
**(unaudited)**

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 10,155 | $ 20,393 |
| Accounts receivable, net of allowance for doubtful accounts of $216 as of September 30, 2020 and $131 as of December 31, 2019 | 12,623 | 14,564 |
| Inventory | 1,139 | 3,457 |
| Prepaid expenses and deposits | 13,703 | 13,478 |
| Derivative instrument asset, current portion (note 5) | 2,402 | 731 |
| Prepaid domain name registry and ancillary services fees, current portion (note 11) | 95,694 | 91,252 |
| Income taxes recoverable | 3,553 | 1,800 |
| Total current assets | 139,269 | 145,675 |
| Prepaid domain name registry and ancillary services fees, long-term portion (note 11) | 17,546 | 17,915 |
| Property and equipment | 109,767 | 82,121 |
| Right of use operating lease asset | 11,625 | 11,335 |
| Contract costs | 359 | 1,400 |
| Intangible assets (note 6) | 50,087 | 57,654 |
| Goodwill (note 6) | 116,270 | 109,818 |
| Total assets | $ 444,923 | $ 425,918 |
| **Liabilities and Stockholders' Equity** | | |
| Current liabilities: | | |
| Accounts payable | $ 8,552 | $ 6,671 |
| Accrued liabilities | 9,525 | 9,373 |
| Customer deposits | 14,372 | 14,074 |
| Derivative instrument liability, current portion (note 5) | 135 | - |
| Operating lease liability, current portion (note 12) | 1,692 | 1,413 |
| Deferred revenue, current portion (note 10) | 128,569 | 123,101 |
| Accreditation fees payable, current portion | 975 | 952 |
| Income taxes payable | 881 | 1,324 |
| Total current liabilities | 164,701 | 156,908 |
| Derivative instrument liability, long-term portion (note 5) | 112 | - |
| Deferred revenue, long-term portion (note 10) | 25,661 | 26,202 |
| Accreditation fees payable, long-term portion | 200 | 216 |
| Operating lease liability, long-term portion (note 12) | 9,679 | 9,424 |
| Loan payable (note 7) | 113,672 | 113,503 |
| Other long-term liability (note 4 (b)) | 3,330 | - |
| Deferred tax liability | 27,187 | 25,471 |
| Stockholders' equity (note 14) | | |
| Preferred stock - no par value, 1,250,000 shares authorized; none issued and outstanding | - | - |
| Common stock - no par value, 250,000,000 shares authorized; 10,593,514 shares issued and outstanding as of September 30, 2020 and 10,585,159 shares issued and outstanding as of December 31, 2019 | 19,989 | 16,633 |
| Additional paid-in capital | 983 | 880 |
| Retained earnings | 78,038 | 76,208 |
| Accumulated other comprehensive income (note 5) | 1,371 | 473 |
| Total stockholders' equity | 100,381 | 94,194 |
| Total liabilities and stockholders' equity | $ 444,923 | $ 425,918 |
| Contingencies (note 18) | | |

See accompanying notes to consolidated financial statements

**Tucows Inc.**
**Consolidated Statements of Operations and Comprehensive Income**

**(Dollar amounts in thousands of U.S. dollars, except per share amounts)**
**(unaudited)**

| | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Net revenues (note 10) | $ 74,311 | $ 88,129 | $ 240,418 | $ 251,199 |
| Cost of revenues (note 10) | | | | |
| Cost of revenues | 48,330 | 55,756 | 153,308 | 162,561 |
| Network expenses | 2,612 | 2,254 | 7,513 | 7,034 |
| Depreciation of property and equipment | 2,985 | 2,231 | 8,892 | 6,070 |
| Amortization of intangible assets (note 6) | 330 | 314 | 1,010 | 802 |
| Impairment of property and equipment | 113 | - | 1,638 | - |
| Total cost of revenues | 54,370 | 60,555 | 172,361 | 176,467 |
| Gross profit | 19,941 | 27,574 | 68,057 | 74,732 |
| Expenses: | | | | |
| Sales and marketing | 8,318 | 8,769 | 26,521 | 26,366 |
| Technical operations and development | 3,162 | 2,876 | 8,980 | 8,151 |
| General and administrative | 4,868 | 4,574 | 15,074 | 13,818 |
| Depreciation of property and equipment | 125 | 117 | 363 | 375 |
| Loss on disposition of property and equipment | - | 73 | - | 73 |
| Amortization of intangible assets (note 6) | 2,315 | 2,544 | 7,766 | 6,661 |
| Impairment of definite life intangible assets (note 6) | - | - | 1,431 | - |
| Loss (gain) on currency forward contracts (note 5) | (159) | 20 | (99) | (90) |
| Total expenses | 18,629 | 18,973 | 60,036 | 55,354 |
| Income from operations | 1,312 | 8,601 | 8,021 | 19,378 |
| Other income (expenses): | | | | |
| Interest expense, net | (760) | (1,263) | (2,756) | (3,549) |
| Gain on sale of Ting customer assets, net (note 17) | 1,090 | - | 1,090 | - |
| Other expense, net | (86) | - | (258) | - |
| Total other income (expenses) | 244 | (1,263) | (1,924) | (3,549) |
| Income before provision for income taxes | 1,556 | 7,338 | 6,097 | 15,829 |
| Provision for income taxes (note 8) | 840 | 3,133 | 2,390 | 6,209 |
| Net income for the period | 716 | 4,205 | 3,707 | 9,620 |
| Other comprehensive income, net of tax | | | | |
| Unrealized income (loss) on hedging activities | 729 | (175) | 609 | 614 |
| Net amount reclassified to earnings (note 5) | 46 | 26 | 289 | 167 |
| Other comprehensive income (loss) net of tax expense (income) of $230 and ($47) for the three months ended September 30, 2020 and September 30, 2019, $262 and $250 for the nine months ended September 30, 2020 and September 30, 2019 (note 5) | 775 | (149) | 898 | 781 |
| Comprehensive income, net of tax for the period | $ 1,491 | $ 4,056 | $ 4,605 | $ 10,401 |
| Basic earnings per common share (note 9) | $ 0.07 | $ 0.40 | $ 0.35 | $ 0.90 |
| Shares used in computing basic earnings per common share (note 9) | 10,577,731 | 10,626,754 | 10,585,785 | 10,639,544 |
| Diluted earnings per common share (note 9) | $ 0.07 | $ 0.39 | $ 0.35 | $ 0.89 |
| Shares used in computing diluted earnings per common share (note 9) | 10,682,808 | 10,745,834 | 10,679,162 | 10,798,099 |

See accompanying notes to consolidated financial statements

**Tucows Inc.**
**Consolidated Statements of Cash Flows**

**(Dollar amounts in thousands of U.S. dollars)**
**(unaudited)**

| | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Cash provided by: | | | | |
| Operating activities: | | | | |
| Net income for the period | $ 716 | $ 4,205 | $ 3,707 | $ 9,620 |
| Items not involving cash: | | | | |
| Depreciation of property and equipment | 3,110 | 2,348 | 9,255 | 6,445 |
| Impairment of property and equipment | 113 | 120 | 1,638 | 142 |
| Amortization of debt discount and issuance costs | 68 | 64 | 202 | 232 |
| Amortization of intangible assets | 2,645 | 2,858 | 8,776 | 7,463 |
| Net amortization contract costs | (15) | (61) | 109 | (8) |
| Impairment of definite life intangible assets | - | - | 1,431 | - |
| Accretion of contingent consideration | 86 | - | 258 | - |
| Other | - | - | 223 | - |
| Deferred income taxes (recovery) | 180 | (170) | (927) | 1,741 |
| Excess tax benefits on share-based compensation expense | (164) | (53) | (508) | (790) |
| Net Right of use operating assets/Operating lease liability | 137 | (54) | 249 | (5) |
| Loss on disposal of domain names | - | 66 | 15 | 72 |
| Loss (gain) on change in the fair value of forward contracts | (175) | (16) | (263) | (204) |
| Disposal of Ting Mobile customer assets (note 17) | 3,513 | - | 3,513 | - |
| Stock-based compensation | 1,016 | 830 | 2,664 | 2,040 |
| Change in non-cash operating working capital: | | | | |
| Accounts receivable | 118 | (1,763) | 2,670 | (1,920) |
| Inventory | (123) | (644) | 1,681 | (128) |
| Prepaid expenses and deposits | 2,905 | (329) | (317) | (3,243) |
| Prepaid domain name registry and ancillary services fees | 984 | 3,819 | (4,073) | 3,754 |
| Income taxes recoverable | (2,475) | 1,576 | (1,681) | (1,299) |
| Accounts payable | 509 | (2,394) | 759 | (2,778) |
| Accrued liabilities | (668) | 3,687 | (334) | 7,274 |
| Customer deposits | 69 | 1,394 | 463 | 873 |
| Deferred revenue | (1,070) | (4,200) | 4,927 | (2,062) |
| Accreditation fees payable | (47) | (68) | 7 | (34) |
| Net cash provided by operating activities | 11,432 | 11,215 | 34,444 | 27,185 |
| | | | | |
| Financing activities: | | | | |
| Proceeds received on exercise of stock options | 632 | 118 | 678 | 312 |
| Payment of tax obligations resulting from net exercise of stock options | (132) | (20) | (479) | (544) |
| Repurchase of common stock | - | (4,986) | (3,281) | (4,986) |
| Proceeds received on loan payable | - | 5,000 | - | 45,371 |
| Repayment of loan payable | - | 3 | - | (4,600) |
| Payment of loan payable costs | - | 2 | (32) | (639) |
| Net cash (used in) provided by financing activities | 500 | 117 | (3,114) | 34,914 |
| | | | | |
| Investing activities: | | | | |
| Additions to property and equipment | (10,636) | (10,308) | (32,729) | (31,157) |
| Acquisition of Cedar Holdings Group, net of cash of $66 (note 4(b)) | - | - | (8,770) | - |
| Acquisition of Ascio Technologies, net of cash of $1 (note 4(a)) | - | - | - | (28,024) |
| Acquisition of intangible assets | - | (1,038) | (69) | (3,566) |
| Net cash used in investing activities | (10,636) | (11,346) | (41,568) | (62,747) |
| | | | | |
| Increase (decrease) in cash and cash equivalents | 1,296 | (14) | (10,238) | (648) |
| | | | | |
| Cash and cash equivalents, beginning of period | 8,859 | 12,003 | 20,393 | 12,637 |
| Cash and cash equivalents, end of period | $ 10,155 | $ 11,989 | $ 10,155 | $ 11,989 |
| | | | | |
| | | | | |
| Supplemental cash flow information: | | | | |
| Interest paid | $ 635 | $ 1,267 | $ 2,638 | $ 3,561 |
| Income taxes paid, net | $ 3,249 | $ 1,959 | $ 5,449 | $ 6,123 |
| Supplementary disclosure of non-cash investing and financing activities: | | | | |
| Property and equipment acquired during the period not yet paid for | $ 1,697 | $ 991 | $ 1,697 | $ 991 |
| Fair value of shares issued for acquisition of Cedar Holdings Group | $ - | $ - | $ 2,000 | $ - |
| Fair value of contingent consideration for acquisition of Cedar Holdings Group | $ - | $ - | $ 3,072 | $ - |
| Acquisition of intangible assets transferred from other assets | $ - | $ 2,501 | $ - | $ - |

See accompanying notes to consolidated financial statements

**NOTES TO CONSOLIDATED INTERIM FINANCIAL STATEMENTS (UNAUDITED)**

**1. Organization of the Company:**

Tucows Inc. (referred to throughout this report as the “Company”, “Tucows”, “we”, “us” or through similar expressions) provides simple useful services that help people unlock the power of the Internet. The Company provides US consumers and small businesses with mobile phone services nationally and high-speed fixed Internet access in selected towns. The Company offers Mobile Service Enabler ("MSE") solutions, as well as professional services to other retail mobile providers. The Company is also a global distributor of Internet services, including domain name registration, digital certificates, and email. It provides these services primarily through a global Internet-based distribution network of Internet Service Providers, web hosting companies and other providers of Internet services to end-users.

**2. Basis of Presentation:**

The accompanying unaudited interim consolidated balance sheets, and the related consolidated statements of operations and comprehensive income and cash flows reflect all adjustments, consisting of normal recurring adjustments, that are, in the opinion of management, necessary for a fair presentation of the financial position of Tucows and its subsidiaries as at September 30, 2020 and the results of operations and cash flows for the interim periods ended September 30, 2020 and 2019. The results of operations presented in this Quarterly Report on Form 10-Q are not necessarily indicative of the results of operations that may be expected for future periods.

The accompanying unaudited interim consolidated financial statements have been prepared by Tucows in accordance with the rules and regulations of the United States Securities and Exchange Commission (the “SEC”). Certain information and footnote disclosures normally included in the Company's annual audited consolidated financial statements and accompanying notes have been condensed or omitted. Other than the exception noted below, these interim consolidated financial statements and accompanying notes follow the same accounting policies and methods of application used in the annual financial statements and should be read in conjunction with the Company's audited consolidated financial statements and notes thereto for the year ended December 31, 2019 included in Tucows' 2019 Annual Report on Form 10-K filed with the SEC on March 4, 2020 (the “2019 Annual Report”). There have been no material changes to our significant accounting policies and estimates during the three and nine months ended September 30, 2020 as compared to the significant accounting policies and estimates described in our 2019 Annual Report, except as described in Note 3 – Recent Accounting Pronouncements, Note 10 - Revenue and Note 17 - Other income.

**3. Recent Accounting Pronouncements:**

*Recent Accounting Pronouncements Adopted*

In August 2018, the Financial Accounting Standards Board (“FASB”) issued ASU No. 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software* (Subtopic 350-40): Customer’s Accounting for Fees Paid in a Cloud Computing Arrangement (“ASU 2018-15”). ASU 2018-15 helps entities evaluate the accounting for fees paid by a customer in a cloud computing arrangement (hosting arrangement) by providing guidance on accounting for implementation costs when the cloud computing arrangement does not include a license and is accounted for as a service contract. The amendments in ASU 2018-15 require an entity (customer) in a hosting arrangement to assess which implementation costs to capitalize vs expense as it relates to a service contract. The amendments also require the entity (customer) to expense the capitalized implementation costs of a hosting arrangement that is a service contract over the term of the hosting arrangement. ASU 2018-15 is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. The Company adopted ASU 2018-15 in the first quarter of 2020 to all implementation costs incurred after the date of adoption. The new guidance did not have a material impact on our consolidated financial statements.

*Recent Accounting Pronouncements Not Yet Adopted*

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform* (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting ("ASU 2020-04"), which provides optional guidance for a limited period of time to ease the potential burden of reference rate reform on financial reporting. The amendments in ASU 2020-04 apply to contract modifications that replace a reference rate affected by reference rate reform and contemporaneous modifications of other contract terms related to the replacement of the reference rate. The following optional expedients for applying the requirements of certain Topics or Industry Subtopics in the Codification are permitted for contracts that are modified because of reference rate reform and that meet certain scope guidance:

1. Modifications of contracts within the scope of Topics 310, Receivables, and 470, Debt, should be accounted for by prospectively adjusting the effective interest rate.
2. Modifications of contracts within the scope of Topic 842, Leases, should be accounted for as a continuation of the existing contracts with no reassessments of the lease classification and the discount rate or remeasurements of lease payments that otherwise would be required under those Topics for modifications not accounted for as separate contracts.
3. Modifications of contracts do not require an entity to reassess its original conclusion about whether that contract contains an embedded derivative that is clearly and closely related to the economic characteristics and risks of the host contract under Subtopic 815-15, Derivatives and Hedging— Embedded Derivatives

The amendments in ASU 2020-04 are effective for all entities as of March 12, 2020 through December 31, 2022. The Company is currently charged interest and standby fees associated with its Amended 2019 Credit Facility (as defined below) based on LIBOR which are partially hedged by interest rate swaps, which are also based on LIBOR. Both the credit facility agreement and the interest rate swaps will need to be amended when an alternative reference rate is chosen, at which time we may adopt some of the practical expedients provided by ASU 2020-04.

**4. Acquisitions:**

(a) Ascio

On March 18, 2019, the Company entered into an Asset Purchase Agreement to purchase all of the equity of Ascio Technologies, Inc. ("Ascio") with NetNames European Holdings ApS, CSC Administrative Services Limited UK, and Corporation Service Company ("CSC") , a domain registrar business, and all of CSC's assets related to that business. For more information, see Note 3 - Acquisitions of the 2019 Annual Report.

(b) Cedar

In the fourth quarter of 2019, the Company entered into a Stock Purchase Agreement to purchase all of the issued and outstanding shares of Cedar Holdings Group, Incorporated ("Cedar"), a fiber Internet provider business based in Durango, Colorado. The transaction closed on January 1, 2020, following receipt of all regulatory approvals. The purchase price was $14.1 million, less an estimated purchase price adjustment of approximately $0.2 million relating to a working capital deficit and assessment of the fair value of contingent consideration, for net purchase consideration of $13.9 million. In addition to $9.0 million cash consideration due at closing, the Company also issued 32,374 ($2.0 million) of Tucows Inc. shares with a two-year restriction period at closing. Included in the agreement is contingent consideration totaling up to $4.0 million, due on the 24th and 36th month anniversaries of the closing of the transaction dependent upon the achievement of certain milestones as defined in the Share Purchase Agreement. The fair value of the contingent consideration was determined to be $3.1 million using a discount rate of 11.2%. The Company has prepared a preliminary purchase price allocation of the assets acquired and the liabilities assumed of Cedar based on management's best estimates of fair value. The final purchase price allocation may vary based on final appraisals, valuations and analyses of the fair value of the acquired assets and assumed liabilities.

The amortization period for the customer relationships and network rights are 7 and 15 years, respectively.

The following table shows the preliminary allocation of the purchase price for Cedar to the acquired identifiable assets and liabilities assumed (*thousands of U.S. dollars*):

| | | |
|---|---|---|
| Cash Consideration, including working capital adjustment | $ | 8,836 |
| Share-based payment | | 2,000 |
| Fair value of contingent payments | | 3,072 |
| **Total estimated purchase price** | | 13,908 |
| | | |
| Cash and Cash Equivalents | | 66 |
| Accounts Receivables, net | | 47 |
| Other current assets | | 22 |
| Property and equipment | | 4,661 |
| Right of use operating lease | | 18 |
| Intangible assets, consisting of customer relationships and network rights | | 5,390 |
| Total identifiable assets | | 10,204 |
| Accounts payable and accrued liabilities | | (362) |
| Deferred tax liability | | (2,373) |
| Operating lease liability | | (13) |
| Total liabilities assumed | | (2,748) |
| Total net assets (liabilities) assumed | | 7,456 |
| **Total goodwill** | **$** | **6,452** |

The goodwill related to this acquisition is primarily attributable to synergies expected to arise from the acquisition and is not deductible for tax purposes.

In connection with this acquisition, the Company incurred total acquisition related costs of $0.1 million, of which nil were included in general & administrative expenses in the consolidated statements of operations and comprehensive income for the three and nine months ended September 30, 2020.

The following table presents selected unaudited pro forma information for the Company assuming the acquisition of Cedar had occurred as of January 1, 2019. This pro forma information does not purport to represent what the Company's actual results would have been if the acquisition had occurred as of the date indicated or what results would be for any future periods.

| | | Unaudited For the Three Months Ended September 30, 2019 | | Unaudited For the Nine Months Ended September 30, 2019 |
|---|---|---|---|---|
| Net revenues | $ | 89,357 | $ | 254,882 |
| Net income | | 4,090 | | 9,530 |
| | | | | |
| Basic earnings per common share | | 0.38 | | 0.90 |
| Diluted earnings per common share | $ | 0.38 | $ | 0.88 |

The amount of revenue recognized since the acquisition date included in the consolidated statements of operations and comprehensive income statement for the three and nine months ended September 30, 2020 is $1.1 million and $3.5 million, respectively.

The net income recognized since the acquisition date included in the consolidated statements of operations and comprehensive income for the three and nine months ended September 30, 2020 is a loss of $0.4 million and a loss of $0.6 million, respectively.

**5. Derivative Instruments and Hedging Activities:**

The Company is exposed to certain risks relating to its ongoing business operations. The primary risks managed by using derivative instruments are foreign exchange rate risk and interest rate risk.

Since October 2012, the Company has employed a hedging program with a Canadian chartered bank to limit the potential foreign exchange fluctuations incurred on its future cash flows related to a portion of payroll, taxes, rent and payments to Canadian domain name registry suppliers that are denominated in Canadian dollars and are expected to be paid by its Canadian operating subsidiary. In May 2020, the Company entered into a pay-fixed, receive-variable interest rate swap with a Canadian chartered bank to limit the potential interest rate fluctuations incurred on its future cash flows related to variable interest payments on the Credit facility. The notional value of the interest rate swap was $70 million.

The Company does not use hedged forward contracts for trading or speculative purposes. The foreign exchange contracts typically mature between one and eighteen months, and the interest rate swap matures in June 2023.

The Company has designated certain of these foreign exchange transactions as cash flow hedges of forecasted transactions under ASU 2017-12, *Derivatives and Hedging* (Topic 815) ("ASC Topic 815"). For certain contracts, as the critical terms of the hedging instrument, and of the entire hedged forecasted transaction, are the same, in accordance with ASC Topic 815, the Company has been able to conclude that changes in fair value and cash flows attributable to the risk of being hedged are expected to completely offset at inception and on an ongoing basis. The Company has also designated the interest rate swap as a cash flow hedge of expected future interest payments. Accordingly, for the foreign exchange and interest rate swap contracts, unrealized gains or losses on the effective portion of these contracts have been included within other comprehensive income and reclassified to earnings when the hedged transaction is recognized in earnings. Cash flows from hedging activities are classified under the same category as the cash flows from the hedged items in the consolidated statements of cash flows. The fair value of the contracts, as of September 30, 2020 and December 31, 2019, is recorded as derivative instrument assets or liabilities. For certain contracts where the hedged transactions are no longer probable to occur, the loss on the associated forward contract is recognized in earnings.

As of September 30, 2020, the notional amount of forward contracts that the Company held to sell U.S. dollars in exchange for Canadian dollars was $41.4 million, of which $35.0 million met the requirements of ASC Topic 815 and were designated as hedges.

As of December 31, 2019, the notional amount of forward contracts that the Company held to sell U.S. dollars in exchange for Canadian dollars was $30.5 million, of which $26.1 million met the requirements of ASC Topic 815 and were designated as hedges.

As of September 30, 2020, we had the following outstanding forward contracts to trade U.S. dollars in exchange for Canadian dollars:

| Maturity date (Dollar amounts in thousands of U.S. dollars) | Notional amount of U.S. dollars | Weighted average exchange rate of U.S. dollars | Fair value Asset / (Liability) |
|---|---|---|---|
| October - December 2020 | 9,658 | 1.3227 | (64) |
| January - March 2021 | 11,124 | 1.4283 | 819 |
| April - June 2021 | 9,878 | 1.4283 | 727 |
| July - September 2021 | 10,782 | 1.4362 | 856 |
| | $ 41,442 | 1.4058 | $ 2,338 |

As of September 30, 2020, the notional amount of the Company's interest rate swap designated as a cash flow hedge was $70 million. As of December 31, 2019 the Company had not entered into any interest rate swaps.

*Fair value of derivative instruments and effect of derivative instruments on financial performance*

The effect of these derivative instruments on our consolidated financial statements were as follows (amounts presented do not include any income tax effects).

*Fair value of derivative instruments in the consolidated balance sheets*

| Derivatives (Dollar amounts in thousands of U.S. dollars) | Balance Sheet Location | As of September 30, 2020 Fair Value Asset (Liability) | As of December 31, 2019 Fair Value Asset (Liability) |
|---|---|---|---|
| Foreign Currency forward contracts designated as cash flow hedges (net) | Derivative instruments | $ 1,971 | $ 626 |
| Interest rate swap contract designated as a cash flow hedge (net) | Derivative instruments | (183) | $ - |
| Foreign Currency forward contracts not designated as cash flow hedges (net) | Derivative instruments | 367 | 105 |
| Total foreign currency and interest swap forward contracts (net) | Derivative instruments | $ 2,155 | $ 731 |

*Movement in accumulated other comprehensive income (AOCI) balance for the three months ended September 30, 2020 (Dollar amounts in thousands of U.S. dollars)*

| | Gains and losses on cash flow hedges | Tax impact | Total AOCI |
|---|---|---|---|
| Opening AOCI balance - June 30, 2020 | $ 780 | $ (184) | $ 596 |
| Other comprehensive income (loss) before reclassifications | 946 | (217) | 729 |
| Amount reclassified from AOCI | 59 | (13) | 46 |
| Other comprehensive income (loss) for the three months ended September 30, 2020 | 1,005 | (230) | 775 |
| | | | |
| Ending AOCI Balance - September 30, 2020 | $ 1,785 | $ (414) | $ 1,371 |

*Movement in accumulated other comprehensive income (AOCI) balance for the nine months ended September 30, 2020 (Dollar amounts in thousands of U.S. dollars)*

| | Gains and losses on cash flow hedges | Tax impact | Total AOCI |
|---|---|---|---|
| Opening AOCI balance - December 31, 2019 | $ 625 | $ (152) | $ 473 |
| Other comprehensive income (loss) before reclassifications | 784 | (175) | 609 |
| Amount reclassified from AOCI | 376 | (87) | 289 |
| Other comprehensive income (loss) for the nine months ended September 30, 2020 | 1,160 | (262) | 898 |
| | | | |
| Ending AOCI Balance - September 30, 2020 | $ 1,785 | $ (414) | $ 1,371 |

*Effects of derivative instruments on income and other comprehensive income (OCI) for the three months ended September 30, 2020 are as follows (Dollar amounts in thousands of U.S. dollars)*

| Derivatives in Cash Flow Hedging Relationship | Amount of Gain or (Loss) Recognized in OCI, net of tax, on Derivative | Location of Gain or (Loss) Reclassified from AOCI into Income | Amount of Gain or (Loss) Reclassified from AOCI into Income |
|---|---|---|---|
| | | Operating expenses | $ (43) |
| Foreign currency forward contracts for the three months ended September 30, 2020 | $ 762 | Cost of revenues | $ (12) |
| | | | |
| Interest rate swap contract for the three months ended September 30, 2020 | $ 13 | Interest expense, net | $ (4) |
| | | | |
| | | Operating expenses | $ (28) |
| Foreign currency forward contracts for the three months ended September 30, 2019 | $ (149) | Cost of revenues | $ (7) |
| | | | |
| Interest rate swap contract for the three months ended September 30, 2019 | $ - | Interest expense, net | $ - |

*Effects of derivative instruments on income and other comprehensive income (OCI) for the nine months ended September 30, 2020 are as follows (Dollar amounts in thousands of U.S. dollars)*

| Derivatives in Cash Flow Hedging Relationship | Amount of Gain or (Loss) Recognized in OCI, net of tax, on Derivative | Location of Gain or (Loss) Reclassified from AOCI into Income | Amount of Gain or (Loss) Reclassified from AOCI into Income |
|---|---|---|---|
| | | Operating expenses | $ (290) |
| Foreign currency forward contracts for the nine months ended September 30, 2020 | $ 1,039 | Cost of revenues | $ (82) |
| | | | |
| Interest rate swap contract for the nine months ended September 30, 2020 | $ (141) | Interest expense, net | $ (4) |
| | | | |
| | | Operating expenses | $ (182) |
| Foreign currency forward contracts for the nine months ended September 30, 2019 | $ 781 | Cost of revenues | $ (38) |
| | | | |
| Interest rate swap contract for the nine months ended September 30, 2019 | $ - | Interest expense, net | $ - |

In addition to the above, for those foreign currency forward contracts not designated as hedges, the Company recorded the following fair value adjustments on settled and outstanding contracts (Dollar amounts in thousands of U.S. dollars):

| Forward currency contracts not designated as hedges: | Three Months Ended September 30, 2020 | 2019 | Nine Months Ended September 30, 2020 | 2019 |
|---|---|---|---|---|
| Gain (loss) on settlement | $ (18) | $ (36) | $ (162) | $ (115) |
| Gain (loss) on change in fair value | $ 177 | $ 16 | $ 261 | $ 205 |

**6. Goodwill and Other Intangible Assets**

**Goodwill**

Goodwill represents the excess of the purchase price over the fair value of tangible and identifiable intangible assets acquired and liabilities assumed in our acquisitions.

The Company's Goodwill balance is $116.3 million as of September 30, 2020 and $109.8 million as of December 31, 2019. The Company's goodwill relates 93% ($107.7 million) to its Domain Services operating segment and 7% ($8.6 million) to its Network Access Services operating segment.

Goodwill is not amortized, but is subject to an annual impairment test, or more frequently if impairment indicators are present. No impairment was recognized during the three and nine months ended September 30, 2020 and 2019.

**Other Intangible Assets:**

Intangible assets consist of acquired brand, technology, customer relationships, surname domain names, direct navigation domain names and network rights. The Company considers its intangible assets consisting of surname domain names and direct navigation domain names as indefinite life intangible assets. The Company has the exclusive right to these domain names as long as the annual renewal fees are paid to the applicable registry. Renewals occur routinely and at a nominal cost. The indefinite life intangible assets are not amortized but are subject to impairment assessments performed throughout the year. As part of the normal renewal evaluation process during the periods ended September 30, 2020 and September 30, 2019, the Company assessed that certain domain names that were originally acquired in the June 2006 acquisition of Mailbank.com Inc. that were up for renewal, should not be renewed.

Intangible assets, comprising brand, technology, customer relationships and network rights are being amortized on a straight-line basis over periods of two to fifteen years.

In June 2020, in light of developments in the economy and the business and leisure travel industries as a result of the novel strain of coronavirus (“COVID-19”) pandemic, the Company decided to discontinue the operation of Roam Mobility. As a consequence of the decision to shut down its Roam Mobility operations, the Company has recorded an impairment loss associated with Roam Mobility customer relationships of nil and $1.4 million during the three months ended September 30, 2020 and the nine months ended September, 30 2020, respectively.

In June 2020, the Company committed to a plan to sell all of its Ting Mobile customer base
(other than certain customer accounts associated with one network operator) and reclassified its mobile customer relationships totaling $2.6 million as held-for-sale assets. In August 2020, the Company sold the mobile customer accounts that are marketed and sold under the Ting brand (other than certain customer accounts associated with one network operator), and as such de-recognized any capitalized customer relationships associated with those accounts. See Note 17 - Other income, for more information.

Throughout the second quarter of 2020, the Company purchased several non-exclusive land easements, totaling $0.1 million, which are necessary for the Company to install fiber internet infrastructure in conjunction with its Fiber Internet business.

Net book value of acquired intangible assets consist of the following (Dollar amounts in thousands of U.S. dollars):

| Amortization period | Surname domain names indefinite life | Direct navigation domain names indefinite life | Brand 7 years | Customer relationships 3 - 7 years | Technology 2 - 7 years | Network rights 15 years | Total |
|---|---|---|---|---|---|---|---|
| Balances, June 30, 2020 | $ 11,160 | $ 1,135 | $ 8,056 | $ 30,257 | $ 884 | $ 1,240 | $ 52,732 |
| Amortization expense | - | - | (518) | (1,797) | (305) | (25) | (2,645) |
| Balances, September 30, 2020 | $ 11,160 | $ 1,135 | $ 7,538 | $ 28,460 | $ 579 | $ 1,215 | $ 50,087 |

| Amortization period | Surname domain names indefinite life | Direct navigation domain names indefinite life | Brand 7 years | Customer relationships 3 - 7 years | Technology 2 - 7 years | Network rights 15 years | Total |
|---|---|---|---|---|---|---|---|
| Balances, December 31, 2019 | $ 11,166 | $ 1,144 | $ 9,091 | $ 34,268 | $ 1,516 | $ 469 | $ 57,654 |
| Cedar Networks acquisition (Note 4 (b)) | - | - | - | 4,640 | - | 750 | 5,390 |
| Additions to/(disposals from) domain portfolio, net | (6) | (9) | - | - | - | - | (15) |
| Impairment of definite life intangible asset | - | - | - | (1,431) | - | - | (1,431) |
| Other | - | - | - | (223) | - | - | (223) |
| Write-down of Ting Mobile customer relationships | - | - | - | (2,581) | - | - | (2,581) |
| Acquisition of Network rights | - | - | - | - | - | 69 | 69 |
| Amortization expense | - | - | (1,553) | (6,213) | (937) | (73) | (8,776) |
| Balances, September 30, 2020 | $ 11,160 | $ 1,135 | $ 7,538 | $ 28,460 | $ 579 | $ 1,215 | $ 50,087 |

The following table shows the estimated amortization expense for each of the next 5 years, assuming no further additions to acquired intangible assets are made (Dollar amounts in thousands of U.S. dollars):

| | Year ending December 31, |
|---|---|
| Remainder of 2020 | $ 2,294 |
| 2021 | 10,521 |
| 2022 | 10,499 |
| 2023 | 8,811 |
| 2024 | 2,399 |
| Thereafter | 3,268 |
| Total | $ 37,792 |

**7. Loan Payable:**

*Amended 2019 Credit Facility*

On June 14, 2019, the Company and its wholly-owned subsidiaries, Tucows.com Co., Ting Fiber, Inc., Ting Inc., Tucows (Delaware) Inc. and Tucows (Emerald), LLC entered into an Amended and Restated Senior Secured Credit Agreement with Royal Bank of Canada ("RBC"), as administrative agent, and lenders party thereto (collectively with RBC, the "Lenders") under which the Company has access to an aggregate of up to $240 million in funds, which consists of $180 million guaranteed credit facility and a $60 million accordion facility. The Amended 2019 Credit Facility replaced the Company's 2017 Amended Credit Facility. On November 27, 2019, the Company entered into Amending Agreement No. 1 to the Amended and Restated Senior Secured Credit Agreement (collectively with the Amended and Restated Senior Secured Credit Agreement, the "Amended 2019 Credit Facility") to amend certain defined terms in connection with the Cedar acquisition.

The Amended 2019 Credit Facility replaced a secured Credit Agreement dated January 20, 2017 with Bank of Montreal, RBC and Bank of Nova Scotia (as amended, the "2017 Amended Credit Facility").

In connection with the Amended 2019 Credit Facility, the Company incurred $0.4 million of fees paid to lenders are debt issuance costs, which have been reflected as a reduction to the carrying amount of the loan payable and will be amortized over the term of the credit facility agreement and $0.1 million have been recorded in general and administrative expenses.

The obligations of the Company under the Amended 2019 Credit Agreement are secured by a first priority lien on substantially all of the personal property and assets of the Company and has a four-year term, maturing on June 13, 2023.

*Credit Facility Terms*

The Amended 2019 Credit Facility is revolving with interest only payments with no scheduled repayments during the term.

The Amended 2019 Credit Facility contains customary representations and warranties, affirmative and negative covenants, and events of default. The Amended 2019 Credit Facility requires that the Company to comply with the following financial covenants: (i) at all times, a Total Funded Debt to Adjusted EBITDA Ratio (as defined in the Amended 2019 Credit Agreement) of 3.50:1; and (ii) with respect to each fiscal quarter, an Interest Coverage Ratio (as defined in the Amended 2019 Credit Agreement) of not less than 3.00:1. Further, the Company's maximum annual Capital Expenditures cannot exceed 110% of the forecasted capital expenditures of its annual business plan. In addition, share repurchases require the Lenders' consent if the Company's Total Funded Debt to Adjusted EBITDA ratio exceeds 2.00:1. During the three and nine months ended September 30, 2020, the Company was in compliance with these covenants.

Borrowings under the Amended 2019 Credit Facility will accrue interest and standby fees based on the Company's Total Funded Debt to Adjusted EBITDA ratio and the availment type as follows:

| | If Total Funded Debt to EBITDA is: | | | |
|---|---|---|---|---|
| Availment type or fee | Less than 1.00 | Greater than or equal to 1.00 and less than 2.00 | Greater than or equal to 2.00 and less than 2.50 | Greater than or equal to 2.50 |
| Canadian dollar borrowings based on Bankers' Acceptance or U.S. dollar borrowings based on LIBOR (Margin) | 1.50% | 1.85% | 2.35% | 2.85% |
| Canadian or U.S. dollar borrowings based on Prime Rate or U.S. dollar borrowings based on Base Rate (Margin) | 0.25% | 0.60% | 1.10% | 1.60% |
| Standby fees | 0.30% | 0.37% | 0.47% | 0.57% |

The following table summarizes the Company's borrowings under the credit facilities (Dollar amounts in thousands of U.S. dollars):

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Revolver | $ 114,400 | $ 114,400 |
| Less: unamortized debt discount and issuance costs | (728) | (897) |
| Total loan payable | 113,672 | 113,503 |
| Less: loan payable, current portion | - | - |
| Loan payable, long-term portion | $ 113,672 | $ 113,503 |

The following table summarizes our scheduled principal repayments as of September 30, 2020 (Dollar amounts in thousands of U.S. dollars):

| | |
|---|---|
| Remainder of 2020 | $ - |
| 2021 | - |
| 2022 | - |
| 2023 | 114,400 |
| | $ 114,400 |

*Other Credit Facilities*

Prior to the Company entering into the Amended 2019 Credit Facility and the 2017 Amended Credit Facility, the Company had credit agreements (collectively the "Prior Credit Facilities") with BMO, which provided the Company with access to a treasury risk management facility and a credit card facility. All remaining credit facilities under the 2017 Amended Credit Facility and the Prior Credit Facilities have been terminated.

**8. Income Taxes:**

For the three months ended September 30, 2020, we recorded an income tax expense of $0.8 million on income before income taxes of $1.6 million, using an estimated effective tax rate for the fiscal year ending December 31, 2020 ("Fiscal 2020") adjusted for certain minimum state taxes as well as the inclusion of a $0.3 million tax expense related to ASU No. 2016-09—*Compensation—Stock Compensation* (Topic 718): Improvements to Employee Share-Based Payment Accounting ("ASU 2016-09"), which requires all excess tax benefits and tax deficiencies related to employee share-based payments to be recognized through income tax expense. Our effective tax rate for the three months ended September 30, 2020 is also adversely impacted by discrete adjustments resulting from finalization of prior period tax filings and a change in the geographical mix of income.

Comparatively, for the three months ended September 30, 2019, the Company recorded an income tax expense of $3.1 million on income before taxes of $7.3 million, using an estimated effective tax rate for the 2019 fiscal year and adjusted for the $0.1 million tax recovery impact related to ASU 2016-09.

For the nine months ended September 30, 2020, we recorded an income tax expense of $2.4 million on net income before income taxes of $6.1 million, using an estimated effective tax rate for Fiscal 2020 adjusted for certain minimum state taxes, as well as the inclusion of a $0.1 million tax expense related to ASU No. 2016-09—Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting ("ASU 2016-09"), which requires all excess tax benefits and tax deficiencies related to employee share-based payments to be recognized through income tax expense. Our effective tax rate for the nine months ended September 30, 2020 is also also adversely impacted by discrete adjustments resulting from finalization of prior period tax filings and a change in the geographical mix of income.

Comparatively, for the nine months ended September 30, 2019, the Company recorded an income tax expense of $6.2 million on income before taxes of $15.8 million, using an estimated effective tax rate for the 2019 fiscal year and adjusted for the $0.8 million tax recovery impact related to ASU 2016-09.

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the years in which those temporary differences become deductible. Management considers projected future taxable income, uncertainties related to the industry in which the Company operates, and tax planning strategies in making this assessment.

In connection with the eNom acquisition in 2017, we acquired deferred tax liabilities primarily composed of prepaid registry fees. As a result, we aligned our tax methodology pertaining to the deductibility of prepaid registry fees for our other subsidiaries. In the first quarter of 2019, we determined that we were in technical violation with respect to the administrative application of the accounting method change relating to the deductibility of prepaid registry fees for these additional subsidiaries. In February 2019, the Company filed an application for relief ("9100 Relief") to correct the issue. In November 2019, the Company was granted 9100 Relief and was given 30 days to file the appropriate forms based on prescribed instructions. The Company filed the forms in December 2019 and now awaits the final IRS response and acceptance of the change in accounting method. Management is of the view that it is more likely than not that the IRS will accept the 9100 Relief and filing of the prescribed forms. As such, no additional tax uncertainties or related interest or penalties have been recorded as at September 30, 2020.

The Company recognizes accrued interest and penalties related to income taxes in income tax expense. The Company did not have significant interest and penalties accrued at September 30, 2020 and December 31, 2019, respectively.

**9. Basic and Diluted Earnings per Common Share:**

The following table reconciles the numerators and denominators of the basic and diluted earnings per common share computation (Dollar amounts in thousands of US dollars, except for share data):

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Numerator for basic and diluted earnings per common share: | | | | |
| Net income for the period | $ 716 | $ 4,205 | $ 3,707 | $ 9,620 |
| | | | | |
| Denominator for basic and diluted earnings per common share: | | | | |
| Basic weighted average number of common shares outstanding | 10,577,731 | 10,626,754 | 10,585,785 | 10,639,544 |
| Effect of outstanding stock options | 105,077 | 119,080 | 93,377 | 158,555 |
| Diluted weighted average number of shares outstanding | 10,682,808 | 10,745,834 | 10,679,162 | 10,798,099 |
| | | | | |
| Basic earnings per common share | $ 0.07 | $ 0.40 | $ 0.35 | $ 0.90 |
| | | | | |
| Diluted earnings per common share | $ 0.07 | $ 0.39 | $ 0.35 | $ 0.89 |

For the three months ended September 30, 2020, options to purchase 87,659 common shares were not included in the computation of diluted income per common share because the options' exercise price was greater than the average market price of the common shares for the period as compared to the three months ended September 30, 2019, where 599,140 outstanding options were not included in the computation.

For the nine months ended September 30, 2020, options to purchase 130,876 common shares were not included in the computation of diluted income per common share because the options' exercise price was greater than the average market price of the common shares for the period as compared to the nine months ended September 30, 2019, where 531,200 outstanding options were not included in the computation.

**10. Revenue:**

*Significant accounting policy*

The Company's revenues are derived from (a) the provisioning of retail mobile services, the provisioning of wholesale mobile platform services, professional services and the provisioning of retail fiber Internet services in our Network Access Services segment; and from (b) domain name registration contracts, other domain related value-added services, domain sale contracts, and other advertising revenue in our Domain Services segment. Amounts received in advance of meeting the revenue recognition criteria described below are recorded as deferred revenue. All products are generally sold without the right of return or refund.

Revenue is measured based on consideration specified in a contract with a customer and excludes any sales incentives and amounts collected on behalf of third parties. The Company recognizes revenue when it satisfies a performance obligation by transferring control over a product or service to a customer.

*Nature of goods and services*

The following is a description of principal activities – separated by reportable segments – from which the Company generates its revenue. For more detailed information about reportable segments, see Note 13 – Segment Reporting.

(a) Network Access Services

The Company generates Network Access Services revenues primarily through the provisioning of mobile services. Mobile services consist of retail services provided to Ting Mobile customers and mobile platform services provided to wholesale customers to whom we also provide other professional services. Fiber internet services revenue include the provisioning of fixed high-speed Internet access, Ting Internet, as well as billing solutions to Internet Service Providers ("ISPs").

Retail mobile services (Ting Mobile) wireless usage contracts grant customers access to standard talk, text and data mobile services. Ting Mobile contracts are billed based on the actual amount of monthly services utilized by each customer during their billing cycle and charged to customers on a postpaid basis. Voice minutes, text messages and megabytes of data are each billed separately based on a tiered pricing program. The Company recognizes revenue for Ting Mobile usage based on the actual amount of monthly services utilized by each customer.

Mobile platform services agreements contain both MSE services and professional services. MSE services represent a single promise to provide continuous access (i.e. a stand-ready performance obligation) to the platform and software solutions. As each month of providing access to the platform is substantially the same and the customer simultaneously receives and consumes the benefits as access is provided, the performance obligation is comprised of a series of distinct service periods. Consideration for these arrangements is variable each month depending on the number of subscribers hosted on the platform. The Company also provides professional services as a part of the mobile platform services agreements. These professional services can include implementation, training, consulting or software development/modification services. Revenues from arrangements to provide professional services are generally distinct from the other promises in the contract(s) and are recognized as the related services are performed. Consideration payable under the professional service arrangements is included with the variable consideration from the mobile platform services, which would represent variable consideration estimated using the most likely amount based on the range of hours expected to be incurred in providing the services. Where consideration for professional services is included in the consideration for mobile platform services, the Company estimates the standalone selling price (“SSP”) for professional services based on observable standalone sales, and applies the residual approach to estimate the SSP for mobile platform services. The total variable consideration is estimated at contract inception (considering any constraints that may apply and updating the estimates as new information becomes available) and the transaction price is allocated to the performance obligations based on the relative SSP basis and recognized over the period to which it relates.

Other professional services consist of professional service arrangements that are billed separately on a time-and-materials basis as well as revenues from the Transitional Services Agreement (“TSA”) with DISH Wireless L.L.C ("DISH"). For professional services billed separately on a time-and-materials basis, revenues are recognized based on the actual hours of services provided. Under the TSA, the Company will provide certain other services such as customer service, marketing and fulfillment services. DISH has the option to terminate services provided under the TSA throughout the term of the agreement, which is for five years effective August 1, 2020. Consideration payable under this arrangement is based on cost plus margin, and revenues are recognized as the services are provided to DISH each month under the ‘as-invoiced’ practical expedient.

Fiber Internet services (Ting Internet) contracts provide customers Internet access at their home or business through the installation and use of our fiber optic network. Ting Internet contracts are generally prepaid and grant customers with unlimited bandwidth based on a fixed price per month basis. Because consideration is collected before the service period, revenue is initially deferred and recognized as the Company performs its obligation to provide Internet access. Though the Company does not consider the installation of fixed Internet access to be a distinct performance obligation, the fees related to installation are immaterial and therefore revenue is recognized as billed.

Both Ting Mobile and Ting Internet access services are primarily contracted through the Ting website, for one month at a time and contain no commitment to renew the contract following each customer’s monthly billing cycle. The Company’s billing cycle for all Ting Mobile and Ting Internet customers is computed based on the customer’s activation date. In order to recognize revenue as the Company satisfies its obligations, we compute the amount of revenues earned but not billed from the end of each billing cycle to the end of each reporting period. In addition, revenues associated with the sale of wireless devices and accessories and Internet hardware to subscribers are recognized when title and risk of loss is transferred to the subscriber and shipment has occurred. Incentive marketing credits given to customers are recorded as a reduction of revenue.

In those cases, where payment is not received at the time of sale, revenue is not recognized at contract inception unless the collection of the related accounts receivable is reasonably assured. The Company records costs that reflect expected refunds, rebates and credit card charge-backs as a reduction of revenues at the time of the sale based on historical experiences and current expectations.

(b) Domain Services

Domain registration contracts, which can be purchased for terms of one to ten years, provide our resellers and retail registrant customers with the exclusive right to a personalized internet address from which to build an online presence. The Company enters into domain registration contracts in connection with each new, renewed and transferred-in domain registration. At the inception of the contract, the Company charges and collects the registration fee for the entire registration period. Though fees are collected upfront, revenue from domain registrations are recognized rateably over the registration period as domain registration contracts contain a ‘right to access’ license of IP, which is a distinct performance obligation measured over time. The registration period begins once the Company has confirmed that the requested domain name has been appropriately recorded in the registry under contractual performance standards.

Domain related value-added services like digital certifications, WHOIS privacy, website hosting and hosted email provide our resellers and retail registrant customers with tools and additional functionality to be used in conjunction with domain registrations. All domain related value-added services are considered distinct performance obligations which transfer the promised service to the customer over the contracted term. Fees charged to customers for domain related value-added services are collected at the inception of the contract, and revenue is recognized on a straight-line basis over the contracted term, consistent with the satisfaction of the performance obligations.

The Company is an ICANN accredited registrar. Thus, the Company is the primary obligor with our reseller and retail registrant customers and is responsible for the fulfillment of our registrar services to those parties. As a result, the Company reports revenue in the amount of the fees we receive directly from our reseller and retail registrant customers. Our reseller customers maintain the primary obligor relationship with their retail customers, establish pricing and retain credit risk to those customers. Accordingly, the Company does not recognize any revenue related to transactions between our reseller customers and their ultimate retail customers.

The Company also sells the rights to the Company’s portfolio domains or names acquired through the Company’s domain expiry stream. Revenue generated from sale of domain name contracts, containing a distinct performance obligation to transfer the domain name rights under the Company’s control, is generally recognized once the rights have been transferred and payment has been received in full.

Advertising revenue is derived through domain parking monetization, whereby the Company contracts with third-party Internet advertising publishers to direct web traffic from the Company’s domain expiry stream domains and Internet portfolio domains to advertising websites. Compensation from Internet advertising publishers is calculated variably on a cost-per-action basis based on the number of advertising links that have been visited in a given month. Given that the variable consideration is calculated and paid on a monthly basis, no estimation of variable consideration is required.

*Disaggregation of Revenue*

The following is a summary of the Company's revenue earned from each significant revenue stream (Dollar amounts in thousands of U.S. dollars):

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | $ 7,019 | $ 21,722 | $ 44,734 | $ 63,516 |
| Mobile platform services | 376 | - | 376 | - |
| Other professional services | 1,457 | - | 1,457 | - |
| Total Mobile | 8,852 | 21,722 | 46,567 | 63,516 |
| Fiber Internet Services | 4,657 | 2,890 | 13,379 | 7,977 |
| Total Network Access Services | 13,509 | 24,612 | 59,946 | 71,493 |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 47,261 | 47,259 | 139,430 | 136,336 |
| Value Added Services | 4,674 | 5,154 | 14,415 | 14,113 |
| Total Wholesale | 51,935 | 52,413 | 153,845 | 150,449 |
| Retail | 8,652 | 8,713 | 25,669 | 26,138 |
| Portfolio | 215 | 2,391 | 958 | 3,119 |
| Total Domain Services | 60,802 | 63,517 | 180,472 | 179,706 |
| | $ 74,311 | $ 88,129 | $ 240,418 | $ 251,199 |

During the three and nine months ended September 30, 2020 and the three and nine months ended September 30, 2019 no customer accounted for more than 10% of total revenue.

At September 30, 2020, one customer represented 46% of accounts receivables.

The following is a summary of the Company's cost of revenue from each significant revenue stream (Dollar amounts in thousands of U.S. dollars):

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | $ 3,440 | $ 11,171 | $ 21,957 | $ 32,721 |
| Mobile platform services | - | - | - | - |
| Other professional services | 1,267 | - | 1,267 | - |
| Total Mobile | 4,707 | 11,171 | 23,224 | 32,721 |
| Fiber Internet Services | 1,682 | 936 | 5,063 | 2,960 |
| Total Network Access Services | 6,389 | 12,107 | 28,287 | 35,681 |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 36,812 | 38,337 | 109,635 | 110,993 |
| Value Added Services | 724 | 773 | 2,271 | 2,306 |
| Total Wholesale | 37,536 | 39,110 | 111,906 | 113,299 |
| Retail | 4,298 | 4,359 | 12,751 | 13,126 |
| Portfolio | 107 | 180 | 364 | 455 |
| Total Domain Services | 41,941 | 43,649 | 125,021 | 126,880 |
| Network Expenses: | | | | |
| Network, other costs | 2,612 | 2,254 | 7,513 | 7,034 |
| Network, depreciation and amortization costs | 3,315 | 2,545 | 9,902 | 6,872 |
| Network, impairment | 113 | - | 1,638 | - |
| Total Network Expenses | 6,040 | 4,799 | 19,053 | 13,906 |
| | $ 54,370 | $ 60,555 | $ 172,361 | $ 176,467 |

*Contract Balances*

The following table provides information about contract liabilities (deferred revenue) from contracts with customers. The Company accounts for contract assets and liabilities on a contract-by-contract basis, with each contract presented as either a net contract asset or a net contract liability accordingly.

Given that Company's long-term contracts with customers are billed in advance of service, the Company's contract liabilities relate to amounts recorded as deferred revenues. The Company does not have material streams of contracted revenue that have not been billed.

Deferred revenue primarily relates to the portion of the transaction price received in advance related to the unexpired term of domain name registrations and other domain related value-added services, on both a wholesale and retail basis, net of external commissions. To a lesser extent, deferred revenue also includes a portion of the transaction price received from mobile platform services, which is related to professional services.

Significant changes in deferred revenue for the nine months ended September 30, 2020 were as follows (Dollar amounts in thousands of U.S. dollars):

| | **September 30, 2020** |
|---|---|
| Balance, beginning of period | $ 149,303 |
| Deferred revenue | 177,822 |
| Recognized revenue | (172,895) |
| Balance, end of period | $ 154,230 |

*Remaining Performance Obligations:*

For retail mobile and internet access services, where the performance obligation is part of contracts that have an original expected duration of one year or less (typically one month), the Company has elected to apply a practical expedient to not disclose revenues expected to be recognized in the future related performance obligations that are unsatisfied (or partially unsatisfied).

Although domain registration contracts are deferred over the lives of the individual contracts, which can range from one to ten years, approximately 80 percent of our deferred revenue balance related to domain contracts is expected to be recognized within the next twelve months.

Deferred revenue related to Exact hosting contracts is also deferred over the lives of the individual contracts, which are expected to be fully recognized within the next twelve months. In connection with the shutdown of the Roam Mobility operations, all previously deferred revenue associated with the Roam Mobility operations has been recognized as of June 30, 2020.

Professional service revenue related to mobile platform services is deferred over a maximum of twelve month periods.

**11. Costs to obtain and fulfill a Contract**

Deferred costs of fulfillment

Deferred costs to fulfill contracts primarily consist of domain registration costs which have been paid to a domain registry, and are capitalized as Prepaid domain name registry and ancillary services fees. These costs are deferred and amortized over the life of the domain which generally ranges from one to ten years. The Company also defers certain technology design and data migration costs it incurs to fulfil its performance obligations contained in our MSE arrangements. For the nine months ended September 30, 2020, the Company capitalized $129.9 million and also amortized $125.8 million of contract costs. There was no impairment loss recognized in relation to the costs capitalized during the nine months ended September 30, 2020. Amortization expense of deferred costs is primarily included in cost of revenue, and to a lesser extent t

echnical operations and development expense.

The breakdown of the movement in the prepaid domain name registry and ancillary services fees balance for the nine months ended September 30, 2020 is as follows (Dollar amounts in thousands of U.S. dollars).

| | **September 30, 2020** |
|---|---|
| Balance, beginning of period | $ 109,167 |
| Deferral of costs | 129,879 |
| Recognized costs | (125,806) |
| Balance, end of period | $ 113,240 |

**12. Leases**

We lease datacenters, corporate offices and fiber-optic cables under operating leases. The Company does not have any leases classified as finance leases.

Our leases have remaining lease terms of 1 year to 20 years, some of which may include options to extend the leases for up to 5 years, and some of which may include options to terminate the leases within 1 year.

The components of lease expense were as follows (Dollar amounts in thousands of U.S. dollars):

| | For the three months ended September 30, 2020 | For the three months ended September 30, 2019 | For the nine months ended September 30, 2020 | For the nine months ended September 30, 2019 |
|---|---|---|---|---|
| Operating Lease Cost (leases with a total term greater than 12 months) | $ 569 | $ 609 | $ 1,644 | $ 2,506 |
| Short-term Lease Cost (leases with a total term of 12 months or less) | 76 | 305 | 449 | 708 |
| Variable Lease Cost | 164 | 156 | 437 | 520 |
| Total Lease Cost | $ 809 | $ 1,070 | $ 2,530 | $ 3,734 |

Lease Cost is presented in general and administrative expenses and network expenses within our consolidated statements of operations and comprehensive income.

Information related to leases was as follows (Dollar amounts in thousands of U.S. dollars):

| *Supplemental cashflow information:* | For the three months ended September 30, 2020 | For the three months ended September 30, 2019 | For the nine months ended September 30, 2020 | For the nine months ended September 30, 2019 |
|---|---|---|---|---|
| Operating Lease - Operating Cash Flows (Fixed Payments) | $ 571 | $ 587 | $ 1,560 | $ 2,472 |
| Operating Lease - Operating Cash Flows (Liability Reduction) | $ 475 | $ 466 | $ 1,273 | $ 2,117 |
| New ROU Assets - Operating Leases | $ 1,030 | $ 86 | $ 1,941 | $ 4,554 |

| *Supplemental balance sheet information related to leases:* | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Weighted Average Discount Rate | 3.87% | 5.20% |
| Weighted Average Remaining Lease Term | 8.24 yrs | 8.62 yrs |

Maturity of lease liability as of September 30, 2020 (Dollar amounts in thousands of U.S. dollars):

| | September 30, 2020 |
|---|---|
| Remaining of 2020 | $ 526 |
| 2021 | 2,043 |
| 2022 | 1,976 |
| 2023 | 1,901 |
| 2024 | 1,512 |
| Thereafter | 5,259 |
| Total future lease payments | 13,217 |
| Less imputed interest | 1,846 |
| Total | $ 11,371 |

Operating lease payments include payments under the non-cancellable term and approximately $0.6 million related to options to extend lease terms that are reasonably certain of being exercised.

As of September 30, 2020, we have entered into lease agreements for total payments of $0.5 million that have not yet commenced, and therefore are not included in the lease liability.

In March 2020, the Company modified a corporate office lease to defer its April 2020 rent payment to be paid later in four equal installments from September to December 2020. The modification resulted in an increase to the right of use operating lease asset and right of use operating lease liability of $0.3 million and $0.6 million, respectively, which also included the foreign exchange re-measurement of the right of use asset at the date of modification. Foreign exchange revaluation on both the right of use asset and liability is presented in general and administrative expenses within our consolidated statements of operations and comprehensive income.

The Company has elected to use the single exchange rate approach when accounting for lease modifications. Under the single exchange rate approach, the entire right of use asset is revalued at the date of modification in the Company's functional currency provided the re-measurement is not considered a separate contract or if the re-measurement is related to change the lease term or assessment of a lessee option to purchase the underlying asset being exercised.

**13. Segment Reporting:**

(a) We are organized and managed based on two operating segments which are differentiated primarily by their services, the markets they serve and the regulatory environments in which they operate and are described as follows:

1. Network Access Services - This segment derives revenue from the retail sale of mobile phones, retail telephony services, retail high speed Internet access to individuals and small businesses primarily through the Ting website. The segment also derives revenue from MSE services and professional services to wholesale customers. Revenues are generated in the United States.

2. Domain Services – This segment includes wholesale and retail domain name registration services, value added services and portfolio services. The Company primarily earns revenues from the registration fees charged to resellers in connection with new, renewed and transferred domain name registrations; the sale of retail Internet domain name registration and email services to individuals and small businesses; and by making its portfolio of domain names available for sale or lease. Domain Services revenues are attributed to the country in which the contract originates, primarily Canada and the United States.

The Chief Executive Officer (the "CEO") is the chief operating decision maker and regularly reviews the operations and performance by segment. The CEO reviews gross profit as (i) a key measure of performance for each segment and (ii) to make decisions about the allocation of resources. Sales and marketing expenses, technical operations and development expenses, general and administrative expenses, depreciation of property and equipment, amortization of intangibles assets, impairment of indefinite life intangible assets, gain on currency forward contracts and other expense net are organized along functional lines and are not included in the measurement of segment profitability. Total assets and total liabilities are centrally managed and are not reviewed at the segment level by the CEO. The Company follows the same accounting policies for the segments as those described in Notes 2 – Basis of Presentation, 3 – Recent Accounting Pronouncements, and 10 - Revenue.

Information by reportable segments (with the exception of disaggregated revenue, which is discussed in Note 10 – Revenue), which is regularly reported to the chief operating decision maker is as follows (Dollar amounts in thousands of US dollars):

| | Network Access Services | Domain Services | Consolidated Totals |
|---|---|---|---|
| **Three Months Ended September 30, 2020** | | | |
| Net Revenues | $ 13,509 | $ 60,802 | $ 74,311 |
| Cost of revenues | | | |
| Cost of revenues | 6,389 | 41,941 | 48,330 |
| Network expenses | 484 | 2,128 | 2,612 |
| Depreciation of property and equipment | 2,631 | 354 | 2,985 |
| Amortization of intangible assets | 26 | 304 | 330 |
| Impairment of Property Plant and Equipment | 113 | - | 113 |
| Total cost of revenues | 9,643 | 44,727 | 54,370 |
| Gross Profit | 3,866 | 16,075 | 19,941 |
| Expenses: | | | |
| Sales and marketing | | | 8,318 |
| Technical operations and development | | | 3,162 |
| General and administrative | | | 4,868 |
| Depreciation of property and equipment | | | 125 |
| Amortization of intangible assets | | | 2,315 |
| Loss (gain) on currency forward contracts | | | (159) |
| Income from operations | | | 1,312 |
| Other income (expenses), net | | | 244 |
| Income before provision for income taxes | | | $ 1,556 |

| | Network Access Services | Domain Services | Consolidated Totals |
|---|---|---|---|
| **Three Months Ended September 30, 2019** | | | |
| Net Revenues | $ 24,612 | $ 63,517 | $ 88,129 |
| Cost of revenues | | | |
| Cost of revenues | 12,107 | 43,649 | 55,756 |
| Network expenses | 515 | 1,739 | 2,254 |
| Depreciation of property and equipment | 1,797 | 434 | 2,231 |
| Amortization of intangible assets | 12 | 302 | 314 |
| Total cost of revenues | 14,431 | 46,124 | 60,555 |
| Gross Profit | 10,181 | 17,393 | 27,574 |
| Expenses: | | | |
| Sales and marketing | | | 8,769 |
| Technical operations and development | | | 2,876 |
| General and administrative | | | 4,574 |
| Depreciation of property and equipment | | | 117 |
| Loss on disposition of property and equipment | | | 73 |
| Amortization of intangible assets | | | 2,544 |
| Loss (gain) on currency forward contracts | | | 20 |
| Income from operations | | | 8,601 |
| Other income (expenses), net | | | (1,263) |
| Income before provision for income taxes | | | $ 7,338 |

| | Network Access Services | Domain Services | Consolidated Totals |
|---|---|---|---|
| **Nine Months Ended September 30, 2020** | | | |
| Net Revenues | $ 59,946 | $ 180,472 | $ 240,418 |
| Cost of revenues | | | |
| Cost of revenues | 28,287 | 125,021 | 153,308 |
| Network expenses | 1,627 | 5,886 | 7,513 |
| Depreciation of property and equipment | 7,629 | 1,263 | 8,892 |
| Amortization of intangible assets | 74 | 936 | 1,010 |
| Impairment of Property Plant and Equipment | 1,638 | - | 1,638 |
| Total cost of revenues | 39,255 | 133,106 | 172,361 |
| Gross Profit | 20,691 | 47,366 | 68,057 |
| Expenses: | | | |
| Sales and marketing | | | 26,521 |
| Technical operations and development | | | 8,980 |
| General and administrative | | | 15,074 |
| Depreciation of property and equipment | | | 363 |
| Amortization of intangible assets | | | 7,766 |
| Impairment of definite life intangible assets | | | 1,431 |
| Loss (gain) on currency forward contracts | | | (99) |
| Income from operations | | | 8,021 |
| Other income (expenses), net | | | (1,924) |
| Income before provision for income taxes | | | $ 6,097 |

| | Network Access Services | Domain Services | Consolidated Totals |
|---|---|---|---|
| **Nine Months Ended September 30, 2019** | | | |
| Net Revenues | $ 71,493 | $ 179,706 | $ 251,199 |
| Cost of revenues | | | |
| Cost of revenues | 35,681 | 126,880 | 162,561 |
| Network expenses | 1,552 | 5,482 | 7,034 |
| Depreciation of property and equipment | 4,907 | 1,163 | 6,070 |
| Amortization of intangible assets | 34 | 768 | 802 |
| Total cost of revenues | 42,174 | 134,293 | 176,467 |
| Gross Profit | 29,319 | 45,413 | 74,732 |
| Expenses: | | | |
| Sales and marketing | | | 26,366 |
| Technical operations and development | | | 8,151 |
| General and administrative | | | 13,818 |
| Depreciation of property and equipment | | | 375 |
| Loss on disposition of property and equipment | | | 73 |
| Amortization of intangible assets | | | 6,661 |
| Loss (gain) on currency forward contracts | | | (90) |
| Income from operations | | | 19,378 |
| Other income (expenses), net | | | (3,549) |
| Income before provision for income taxes | | | $ 15,829 |

(b) The following is a summary of the Company's property and equipment by geographic region (Dollar amounts in thousands of US dollars):

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Canada | $ 2,249 | $ 2,319 |
| United States | 107,475 | 79,758 |
| Europe | 43 | 44 |
| | $ 109,767 | $ 82,121 |

(c) The following is a summary of the Company's amortizable intangible assets by geographic region (Dollar amounts in thousands of US dollars):

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Canada | $ 2,635 | $ 5,207 |
| United States | 35,157 | 40,137 |
| | $ 37,792 | $ 45,344 |

(d) The following is a summary of the Company's deferred tax asset, net of valuation allowance, by geographic region (Dollar amounts in thousands of US dollars):

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Canada | $ - | $ - |
| | $ - | $ - |

(e) Valuation and qualifying accounts (Dollar amounts in thousands of US dollars):

| Allowance for doubtful accounts | Balance at beginning of period | Charged to costs and expenses | Write-offs during period | Balance at end of period |
|---|---|---|---|---|
| Nine Months Ended September 30, 2020 | $ 131 | $ 85 | $ - | $ 216 |
| Twelve months ended December 31, 2019 | $ 132 | $ (1) | $ - | $ 131 |

**14. Stockholders' Equity:**

The following table summarizes stockholders' equity transactions for the three-month period ended September 30, 2020 (Dollar amounts in thousands of U.S. dollars):

| | Common stock | | Additional paid in capital | Retained earnings | Accumulated other comprehensive income (loss) | Total stockholders' equity |
|---|---|---|---|---|---|---|
| | Number | Amount | | | | |
| Balances, June 30, 2020 | 10,570,360 | 18,865 | 591 | 77,322 | 596 | 97,374 |
| Exercise of stock options | 38,102 | 1,124 | (492) | - | - | 632 |
| Shares deducted from exercise of stock options for payment of withholding taxes and exercise consideration | (14,948) | - | (132) | - | - | (132) |
| Stock-based compensation | - | - | 1,016 | - | - | 1,016 |
| Net income | - | - | - | 716 | - | 716 |
| Other comprehensive income (loss) | - | - | - | - | 775 | 775 |
| Balances, September 30, 2020 | 10,593,514 | $ 19,989 | $ 983 | $ 78,038 | $ 1,371 | $ 100,381 |

The following table summarizes stockholders' equity transactions for the nine-month period ended September 30, 2020 (Dollar amounts in thousands of U.S. dollars):

| | Common stock | | Additional paid in capital | Retained earnings | Accumulated other comprehensive income (loss) | Total stockholders' equity |
|---|---|---|---|---|---|---|
| | Number | Amount | | | | |
| Balances, December 31, 2019 | 10,585,159 | 16,633 | 880 | 76,208 | 473 | 94,194 |
| Exercise of stock options | 80,037 | 1,480 | (802) | - | - | 678 |
| Shares deducted from exercise of stock options for payment of withholding taxes and exercise consideration | (33,818) | - | (479) | - | - | (479) |
| Acquisition of Cedar Holdings Group | 32,374 | 2,000 | - | - | - | 2,000 |
| Repurchase and retirement of shares | (70,238) | (124) | (1,280) | (1,877) | - | (3,281) |
| Stock-based compensation | - | - | 2,664 | - | - | 2,664 |
| Net income | - | - | - | 3,707 | - | 3,707 |
| Other comprehensive income (loss) | - | - | - | - | 898 | 898 |
| Balances, September 30, 2020 | 10,593,514 | $ 19,989 | $ 983 | $ 78,038 | $ 1,371 | $ 100,381 |

*2020 Stock Buyback Program*

On February 12, 2020, the Company announced that its Board had approved a stock buyback program to repurchase up to $40 million of its common stock in the open market. The $40 million buyback program commenced on February 13, 2020 and is expected to terminate on February 12, 2021. For the three months ended September 30, 2020, the Company did not repurchase shares under this program. For the nine months ended September 30, 2020, the Company repurchased 70,238 shares under this program for total consideration of $3.3 million.

*2019 Stock Buyback Program*

On February 13, 2019, the Company announced that its Board had approved a stock buyback program to repurchase up to $40 million of its common stock in the open market. The $40 million buyback program commenced on February 14, 2019 and terminated on February 13, 2020. During the three and nine months ended September 30, 2019, the Company repurchased 101,816 shares under this program, for a total of $5.0 million. During the nine months ended September 30, 2020, the Company did not repurchase shares under this program.

*2018 Stock Buyback Program*

On February 14, 2018, the Company announced that its Board of Directors has approved a stock buyback program to repurchase up to $40 million of its common stock in the open market. Purchases were to be made exclusively through the facilities of the NASDAQ Capital Market. The stock buyback program commenced on February 14, 2018 and terminated on February 13, 2019. During the nine months ended September 30, 2019, the Company did not repurchase any shares under this program.

**15. Share-based Payments:**

Stock options

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model. Because option-pricing models require the use of subjective assumptions, changes in these assumptions can materially affect the fair value of the options. The assumptions presented in the table below represent the weighted average of the applicable assumption used to value stock options at their grant date. The Company calculates expected volatility based on historical volatility of the Company's common shares. The expected term, which represents the period of time that options granted are expected to be outstanding, is estimated based on historical exercise experience. The Company evaluated historical exercise behavior when determining the expected term assumptions. The risk-free rate assumed in valuing the options is based on the U.S. Treasury yield curve in effect at the time of grant for the expected term of the option. The Company determines the expected dividend yield percentage by dividing the expected annual dividend by the market price of Tucows Inc. common shares at the date of grant.

Details of stock option transactions for the three months ended September 30, 2020 and September 30, 2019 are as follows (Dollar amounts in thousands of U.S. dollars, except per share amounts):

| | Three Months Ended September 30, 2020 | | Three Months Ended September 30, 2019 | |
|---|---|---|---|---|
| | Number of shares | Weighted average exercise price per share | Number of shares | Weighted average exercise price per share |
| Outstanding, beginning of period | 897,278 | $ 53.41 | 774,915 | $ 48.63 |
| Granted | 23,800 | 68.30 | 36,500 | 54.51 |
| Exercised | (38,102) | 38.58 | (12,260) | 15.60 |
| Forfeited | (10,678) | 60.54 | (7,014) | 60.87 |
| Expired | (636) | 58.77 | (12,875) | 44.98 |
| Outstanding, end of period | 871,662 | 54.38 | 779,266 | 49.37 |
| Options exercisable, end of period | 436,862 | $ 48.57 | 368,664 | $ 39.43 |

Details of stock option transactions for the nine months ended September 30, 2020 and September 30, 2019 are as follows (Dollar amounts in thousands of U.S. dollars, except per share amounts):

| | Nine Months Ended September 30, 2020 | | Nine Months Ended September 30, 2019 | |
|---|---|---|---|---|
| | Number of shares | Weighted average exercise price per share | Number of shares | Weighted average exercise price per share |
| Outstanding, beginning of period | 754,497 | $ 49.94 | 702,337 | $ 43.80 |
| Granted | 219,325 | 60.18 | 180,800 | 60.56 |
| Exercised | (80,037) | 26.87 | (66,619) | 18.65 |
| Forfeited | (18,993) | 60.41 | (22,315) | 58.59 |
| Expired | (3,130) | 59.64 | (14,937) | 46.45 |
| Outstanding, end of period | 871,662 | 54.38 | 779,266 | 49.37 |
| Options exercisable, end of period | 436,862 | $ 48.57 | 368,664 | $ 39.43 |

As of September 30, 2020, the exercise prices, weighted average remaining contractual life of outstanding options and intrinsic values were as follows:

| | Options outstanding | | | | Options exercisable | | | |
|---|---|---|---|---|---|---|---|---|
| Exercise price | Number outstanding | Weighted average exercise price per share | Weighted average remaining contractual life (years) | Aggregate intrinsic value | Number exercisable | Weighted average exercise price per share | Weighted average remaining contractual life (years) | Aggregate intrinsic value |
| $10.16 - $19.95 | 61,514 | $ 16.21 | 1.0 | $ 3,241 | 61,514 | $ 16.21 | 1.0 | $ 3,241 |
| $21.10 - $27.53 | 36,250 | 23.76 | 1.7 | 1,636 | 36,250 | 23.76 | 1.7 | 1,636 |
| $35.25 - $37.35 | 5,625 | 36.88 | 1.7 | 180 | 4,375 | 37.35 | 1.3 | 138 |
| $46.90 - $48.00 | 14,000 | 47.33 | 5.4 | 302 | 3,750 | 47.00 | 3.4 | 82 |
| $51.82 - $59.98 | 329,046 | 55.52 | 3.8 | 4,402 | 248,490 | 55.52 | 3.6 | 3,325 |
| $60.01 - $68.41 | 425,227 | 62.08 | 5.8 | 2,899 | 82,483 | 63.33 | 5.1 | 459 |
| | 871,662 | $ 54.38 | 4.5 | $ 12,660 | 436,862 | $ 48.57 | 3.3 | $ 8,881 |

Total unrecognized compensation cost relating to unvested stock options at September 30, 2020, prior to the consideration of expected forfeitures, is approximately $8.0 million and is expected to be recognized over a weighted average period of 2.6 years.

The Company recorded stock-based compensation of $1.0 million for the three months ended September 30, 2020, and $0.8 million for the three months ended September 30, 2019, respectively.

The Company recorded stock-based compensation of $2.7 million for the nine months ended September 30, 2020, and $2.0 million for the nine months ended September 30, 2019, respectively.

The Company has not capitalized any stock-based compensation expense as part of the cost of an asset.

**16. Fair Value Measurement:**

For financial assets and liabilities recorded in our financial statements at fair value we utilize a valuation hierarchy for disclosure of the inputs to valuation used to measure fair value. This hierarchy prioritizes the inputs into three broad levels. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities. Level 2 inputs are quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument. Level 3 inputs are unobservable inputs based on the Company's own assumptions used to measure assets and liabilities at fair value. A financial asset or liability's classification within the hierarchy is determined based on the lowest level input that is significant to the fair value measurement.

The following table provides a summary of the fair values of the Company's derivative instruments measured at fair value on a recurring basis as at September 30, 2020 (Dollar amounts in thousands of U.S. dollars):

| | September 30, 2020 | | | |
|---|---|---|---|---|
| | Fair Value Measurement Using | | | Assets (Liabilities) at Fair value |
| | Level 1 | Level 2 | Level 3 | |
| Derivative instrument asset | $ - | $ 2,402 | $ - | $ 2,402 |
| Derivative instrument liability | $ - | $ (247) | $ - | $ (247) |
| Total assets (liability) | $ - | $ 2,155 | $ - | $ 2,155 |

The following table provides a summary of the fair values of the Company's derivative instruments measured at fair value on a recurring basis as at December 31, 2019 (Dollar amounts in thousands of U.S. dollars):

| | December 31, 2019 | | | |
|---|---|---|---|---|
| | Fair Value Measurement Using | | | Assets (Liabilities) at Fair value |
| | Level 1 | Level 2 | Level 3 | |
| Derivative instrument asset | $ - | $ 731 | $ - | $ 731 |
| Total assets | $ - | $ 731 | $ - | $ 731 |

**17. Other income:**

On August 1, 2020, the Company entered into an Asset Purchase Agreement (the "Purchase Agreement"), by and between the Company and DISH Wireless L.L.C.("DISH"). Under the Purchase Agreement and in accordance with the terms and conditions set forth therein, the Company sold to DISH its mobile customer accounts that are marketed and sold under the Ting brand (other than certain customer accounts associated with one network operator) ("Transferred Assets"). For a period of 10 years following the execution of the Purchase Agreement, DISH will pay a monthly fee to the Company generally equal to an amount of net revenue received by DISH in connection with the transferred customer accounts minus certain fees and expenses, as further set forth in the Purchase Agreement. During the three and nine months ended September 30, 2020, the Company earned $4.6 million under the Purchase Agreement.

On August 1, 2020, the Company derecognized intangible assets and capitalized contract costs associated with the Transferred Assets in the amount of $3.5 million. As an accounting policy, the Company only records contingent consideration when the consideration is resolved. As such the Company will continue to record contingent consideration in Other income as the consideration is invoiced on a monthly basis over the 10-year period following the execution of the Purchase Agreement. The gain is presented net of the original cost base of the Transferred Assets:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Write-down of Ting Mobile intangible assets | $ (2,581) | $ - | $ (2,581) | $ - |
| Write-down of Ting Mobile contract costs | (932) | - | (932) | - |
| Income earned on sale of Transferred Assets | 4,603 | - | 4,603 | - |
| Gain on sale of Ting Customer Assets | $ 1,090 | $ - | $ 1,090 | $ - |

**18. Contingencies:**

From time to time, the Company has legal claims and lawsuits in connection with its ordinary business operations. The Company vigorously defends such claims. While the final outcome with respect to any actions or claims outstanding or pending as of September 30, 2020 cannot be predicted with certainty, management does not believe that the resolution of these claims, individually or in the aggregate, will have a material adverse effect on the Company's financial position.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains, in addition to historical information, forward-looking statements by us with regard to our expectations as to financial results and other aspects of our business that involve risks and uncertainties and may constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Words such as "may," "should," "anticipate," "believe," "plan," "estimate," "expect" and "intend," and other similar expressions are intended to identify forward-looking statements. The forward-looking statements contained in this report include statements regarding, among other things: the competition we expect to encounter as our business develops and competes in a broader range of Internet services; the Company's foreign currency requirements, specifically for the Canadian dollar; Mobile Services Platform, and fixed Internet access subscriber growth and retention rates; our belief regarding the underlying platform for our domain services, our expectation regarding the trend of sales of domain names and advertising; our expectations regarding portfolio revenue, our belief that, by increasing the number of services we offer, we will be able to generate higher revenues; our expectation regarding litigation; the potential impact of current and pending claims on our business; our valuations of certain deferred tax assets; our expectation to collect our outstanding receivables, net of our allowance for doubtful accounts; our expectation regarding fluctuations in certain expense and cost categories; our expectations regarding our unrecognized tax; our expectations regarding cash from operations to fund our business; the impact of cancellations of or amendments to market development fund programs under which we receive funds, our expectation regarding our ability to manage realized gains/losses from foreign currency contracts; the impact of the COVID-19 outbreak on our business, operations and financial performance; and general business conditions and economic uncertainty. These statements are based on management's current expectations and are subject to a number of uncertainties and risks that could cause actual results to differ materially from those described in the forward-looking statements. Many factors affect our ability to achieve our objectives and to successfully develop and commercialize our services including:

- Our ability to continue to generate sufficient working capital to meet our operating requirements;
- Our ability to service our debt commitments;
- Our ability to maintain a good working relationship with our vendors and customers;
- The ability of vendors to continue to supply our needs;
- Actions by our competitors;
- Our ability to attract and retain qualified personnel in our business;
- Our ability to effectively manage our business;
- The effects of any material impairment of our goodwill or other indefinite-lived intangible assets;
- Our ability to obtain and maintain approvals from regulatory authorities on regulatory issues;
- Our ability to invest in the build-out of fiber networks into selected towns and cities to provide Internet access services to residential and commercial customers while maintaining the development and sales of our established services;
- Adverse tax consequences such as those related to changes in tax laws or tax rates or their interpretations, including with respect to the impact of the Tax Cuts and Jobs Act of 2017;
- The application of judgment in determining our global provision for income taxes, deferred tax assets or liabilities or other tax liabilities given the ultimate tax determination is uncertain;
- Our ability to effectively integrate acquisitions;
- Our ability to monitor, assess and respond to the rapidly changing impacts of the COVID-19 pandemic. Our current assessment of expected impacts has been included below as part of the Opportunities, Challenges & Risks section.
- Our ability to collect anticipated payments from DISH in connection with the 10-year payment stream that is a function of the margin generated by the transferred subscribers over a 10-year period pursuant to the terms of the Purchase Agreement;
- Pending or new litigation; and
- Factors set forth below in Part II - Other Information under the caption "Item 1A Risk Factors" in this Quarterly Report on Form 10-Q related to our Mobile Services Enabler (MSE) platform and business.
- Factors set forth under the caption "Item 1A Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2019 filed with the SEC on March 4, 2020 (the "2019 Annual Report").

As previously disclosed the under the caption “Item 1A Risk Factors” in our 2019 Annual Report, data protection regulations may impose legal obligations on us that we cannot meet or that conflict with our ICANN contractual requirements.

This list of factors that may affect our future performance and financial and competitive position and the accuracy of forward-looking statements is illustrative, but it is by no means exhaustive. Accordingly, all forward-looking statements should be evaluated with the understanding of their inherent uncertainty. All forward-looking statements included in this document are based on information available to us as of the date of this document, and we assume no obligation to update these cautionary statements or any forward-looking statements, except as required by law. These statements are not guarantees of future performance.

We qualify all the forward-looking statements contained in this Quarterly Report on Form 10-Q by the foregoing cautionary statements.

**OVERVIEW**

Our mission is to provide simple useful services that help people unlock the power of the Internet.

We accomplish this by reducing the complexity of our customers’ experience as they access the Internet (at home or on the go) and while using Internet services such as domain name registration, email and other Internet services. We are organized, managed and report our financial results as two segments, Network Access Services and Domain Services, which are differentiated primarily by their services, the markets they serve and the regulatory environments in which they operate.

Our management regularly reviews our operating results on a consolidated basis, principally to make decisions about how we utilize our resources and to measure our consolidated operating performance. To assist us in forecasting growth and to help us monitor the effectiveness of our operational strategies, our management regularly reviews revenue for each of our service offerings in order to gain more depth and understanding of the key business metrics driving our business. Accordingly, we report Network Access Services and Domain Services revenue separately

For the three months ended September 30, 2020 and September 30, 2019, we reported revenue of $74.3 million and $88.1 million, respectively.

For the nine months ended September 30, 2020 and September 30, 2019, we reported revenue of $240.4 million and $251.2 million, respectively.

***Network Access Services***

Network Access Services includes retail mobile services, mobile platform and professional services supporting MVNOs, fixed high-speed Internet access services and other revenues, including billing solutions to small ISPs.

On August 1, 2020, the Company and its wholly owned Subsidiary Ting, Inc. entered into an Asset Purchase Agreement (the “Purchase Agreement”) with DISH pursuant to which Ting sold substantially all of its retail mobile customer relationships, and mobile handset and SIM inventory to DISH and granted DISH the right to use and an option to purchase the Ting brand. The transferred assets under the Purchase Agreement do not include the technology platforms and related intellectual property and infrastructure necessary to enable or support the mobile customers. The Company has retained the assets used to provide Mobile Services Enabler (MSE) platform and other professional services to DISH, as discussed below. As at September 30, 2020, the Company had shut down the Roam Mobility brands and related businesses as a result of lack of demand for SIM-enabled roaming services due to the current and expected longer term reduction of business and leisure travel caused by the COVID-19 pandemic.

The Company also derives revenue from the sale of fixed high-speed Internet access, Ting Internet, in select towns throughout the United States, with further expansion underway to both new and existing Ting towns. Our primary sales channel of Ting Internet is through the Ting website. The primary focus of Ting Internet is to provide reliable Gigabit Internet services to consumer and business customers. On January 1, 2020, the Company closed its acquisition of Cedar. Cedar is a telecommunications provider serving multiple markets in the Western Slope of Colorado and northwestern New Mexico. Cedar has focused the last several years on building fiber to enterprise, anchor institution, and residential customers.

Revenues from our retail mobile services, MSE business and Ting Internet are all generated in the U.S. and are provided on a monthly basis. Ting Internet services have no fixed contract terms, while our MSE customer agreements have set contract lengths with the underlying MVNO.

***Domain Services***

Domain Services includes wholesale and retail domain name registration services, value added services and portfolio services derived through our OpenSRS, eNom, Ascio, EPAG and Hover brands. We earn revenues primarily from the registration fees charged to resellers in connection with new, renewed and transferred domain name registrations. In addition, we earn revenues from the sale of retail domain name registration and email services to individuals and small businesses; and by making our portfolio of domain names available for sale or lease. Domain Services revenues are attributed to the country in which the contract originates, which is primarily in Canada and the U.S for OpenSRS and Enom brands. Ascio domain services contracts and EPAG agreements primarily originate in Europe.

Our primary distribution channel is a global network of approximately 36,000 resellers that operate in over 150 countries and who typically provide their customers, the end-users of Internet-based services, with solutions for establishing and maintaining an online presence. Our primary focus is serving the needs of this network of resellers by providing the broadest portfolio of generic top-level domain ("gTLD") and the country code top-level domain options and related services, a white-label platform that facilitates the provisioning and management of domain names, a powerful Application Program Interface, easy-to-use interfaces, comprehensive management and reporting tools, and proactive and attentive customer service. Our services are integral to the solutions that our resellers deliver to their customers. We provide "second tier" support to our resellers by email, chat and phone in the event resellers experience issues or problems with our services. In addition, our Network Operating Center proactively monitors all services and network infrastructure to address deficiencies before customer services are impacted.

We believe that the underlying platforms for our services are among the most mature, reliable and functional reseller-oriented provisioning and management platforms in our industry, and we continue to refine, evolve and improve these services for both resellers and end-users. Our business model is characterized primarily by non-refundable, up-front payments, which lead to recurring revenue and positive operating cash flow.

Wholesale, primarily branded as OpenSRS, eNom, EPAG and Ascio, derives revenue from its domain service and from providing value-added services. The OpenSRS, eNom, EPAG and Ascio domain services manage 25.0 million domain names under the Tucows, eNom, EPAG and Ascio ICANN registrar accreditations and for other registrars under their own accreditations, which has increased by 1.2 million domain names since September 30, 2019. The increase is driven by increased registrations experienced by our brands during COVID-19, as more businesses established an online presence, offset by the continued erosion of registrations related to non-core customers from our Enom brand.

Value-Added Services include hosted email which provides email delivery and webmail access to millions of mailboxes, Internet security services, Internet hosting, WHOIS privacy, publishing tools and other value-added services. All of these services are made available to end-users through a network of 36,000 web hosts, ISPs, and other resellers around the world. In addition, we also derive revenue by monetizing domain names which are near the end of their lifecycle through advertising revenue or auction sale.

Retail, primarily the Hover and eNom portfolio of websites, including eNom, eNom Central and Bulkregister, derive revenues from the sale of domain name registration and email services to individuals and small businesses. Retail also includes our Personal Names Service – based on over 36,000 surname domains – that allows roughly two-thirds of Americans to purchase an email address based on their last name.

Portfolio generates revenue by offering names in our domain portfolio for resale through a number of distribution channels including our reseller network.

In the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio revenue to materially decline in Fiscal 2020 and thereafter.

**KEY BUSINESS METRICS AND NON-GAAP MEASURES**

We regularly review a number of business metrics, including the following key metrics and non-GAAP measures, to assist us in evaluating our business, measure the performance of our business model, identify trends impacting our business, determine resource allocations, formulate financial projections and make strategic business decisions. The following tables set forth the key business metrics which we believe are the primary indicators of our performance for the periods presented:

**Adjusted EBITDA**

Tucows reports all financial information in accordance with United States generally accepted accounting principles ("GAAP"). Along with this information, to assist financial statement users in an assessment of our historical performance, we typically disclose and discuss a non-GAAP financial measure, adjusted EBITDA, on investor conference calls and related events that exclude certain non-cash and other charges as we believe that the non-GAAP information enhances investors' overall understanding of our financial performance. Please see discussion of adjusted EBITDA in the Results of Operations section below.

Ting Mobile accounts and subscribers under management are no longer reported as a key performance indicator. This is result of the Purchase Agreement with DISH in the current period, where the Company sold substantially all of its retail mobile customer relationships, and mobile handset and SIM inventory to DISH and granted DISH the right to use and an option to purchase the Ting brand. As part of the Purchase Agreement, as a form of consideration for the sale of the customer relationships, the Company receives a payout on the margin associated with the legacy customer base sold to DISH. This has been classified as Other Income and not considered revenue in the current period.

| **Ting Internet** | **September 30,** | |
|---|---|---|
| | **2020** | **2019** |
| | **(in '000's)** | |
| Ting Internet accounts under management | 14 | 10 |
| Ting Internet serviceable addresses (1) | 50 | 34 |

(1) Defined as premises to which Ting has the capability to provide a customer connection in a service area.

| **Domain Services** | **For the Three Months Ended September 30,(1)** | |
|---|---|---|
| | **2020** | **2019** |
| | **(in 000's)** | |
| Total new, renewed and transferred-in domain name registrations provisioned | 4,460 | 4,227 |
| Domains under management | | |

(1) For a discussion of these period-to-period changes in the domains provisioned and domains under management and how they impacted our financial results see the Net Revenues discussion below.

| **Domain Services** | **For the Nine Months Ended September 30,(1)** | |
|---|---|---|
| | **2020** | **2019** |
| | **(in 000's)** | |
| Total new, renewed and transferred-in domain name registrations provisioned | 13,963 | 13,166 |
| Domains under management | | |

(1) For a discussion of these period-to-period changes in the domains provisioned and domains under management and how they impacted our financial results see the Net Revenues discussion below.

| **Domain Services** | **September 30,** | |
|---|---|---|
| | **2020** | **2019** |
| | **(in 000's)** | |
| Registered using Registrar Accreditation belonging to the Tucows Group | 19,598 | 19,491 |
| Registered using Registrar Accreditation belonging to Resellers | 5,429 | 4,367 |
| Total domain names under management | 25,027 | 23,858 |

**OPPORTUNITIES, CHALLENGES AND RISKS**

Our revenue is primarily realized in U.S. dollars and a major portion of our operating expenses are paid in Canadian dollars. Fluctuations in the exchange rate between the U.S. dollar and the Canadian dollar may have a material effect on our business, financial condition and results from operations. In particular, we may be adversely affected by a significant weakening of the U.S. dollar against the Canadian dollar on a quarterly and an annual basis. Our policy with respect to foreign currency exposure is to manage our financial exposure to certain foreign exchange fluctuations with the objective of neutralizing some or all of the impact of foreign currency exchange movements by entering into foreign exchange forward contracts to mitigate the exchange risk on a portion of our Canadian dollar exposure. We may not always enter into such forward contracts and such contracts may not always be available and economical for us. Additionally, the forward rates established by the contracts may be less advantageous than the market rate upon settlement.

***Network Access Services***

On August 1, 2020, the Company and its wholly owned Subsidiary Ting, Inc. entered into an Asset Purchase Agreement (the "Purchase Agreement") with DISH pursuant to which Ting sold substantially all of its retail mobile customer relationships, and mobile handset and SIM inventory to DISH and granted the right to use and an option to purchase the Ting brand. Select MNO agreements previously established to operate the Ting Mobile MVNO business will also be assigned to DISH as part of this Purchase Agreement. The transferred assets under the Purchase Agreement do not include the technology platforms and related intellectual property and infrastructure necessary to enable or support the mobile customers. The Company will retain assets used to provide MSE services to DISH, as discussed below.

Contemporaneously with the execution of the Purchase Agreement on August 1, 2020, the Company, through its wholly owned subsidiary Ting, Inc. entered into a services agreement under which Ting will act as a mobile service enabler ("MSE Agreement") with DISH in support of DISH's mobile network operations. Under the terms of the MSE Agreement, the Company and its affiliates are permitted to sell mobile service enabler services to other third parties. The identified risks associated with this pivot from MVNO to MSE have been discussed at length below in Part II - Other Information under the caption "Item 1A Risk Factors" in this Quarterly Report on Form 10-Q.

As an ISP, we have invested and expect to continue to invest in new fiber to the home ("FTTH") deployments in select markets in the United States. The investments are a reflection of our ongoing efforts to build FTTH network via public-private partnerships in communities we identify as having strong, unmet demand for FTTH services. Given the significant upfront build and operational investments for these FTTH deployments, there is risk that future technological and regulatory changes as well as competitive responses from incumbent local providers, may result in us not fully recovering these investments.

The communications industry continues to compete on the basis of network reach and performance, types of services and devices offered, and price.

***Domain Services***

The increased competition in the market for Internet services in recent years, which we expect will continue to intensify in the short and long term, poses a material risk for us. As new registrars are introduced, existing competitors expand service offerings and competitors offer price discounts to gain market share, we face pricing pressure, which can adversely impact our revenues and profitability. To address these risks, we have focused on leveraging the scalability of our infrastructure and our ability to provide proactive and attentive customer service to aggressively compete to attract new customers and to maintain existing customers.

Substantially all of our Domain Services revenue is derived from domain name registrations and related value-added services from wholesale and retail customers using our provisioning and management platforms. The market for wholesale registrar services is both price sensitive and competitive and is evolving with the introduction of new gTLDs, particularly for large volume customers, such as large web hosting companies and owners of large portfolios of domain names. We have a relatively limited ability to increase the pricing of domain name registrations without negatively impacting our ability to maintain or grow our customer base. Growth in our Domain Services revenue is dependent upon our ability to continue to attract and retain customers by maintaining consistent domain name registration and value-added service renewal rates and to grow our customer relationships through refining, evolving and improving our provisioning platforms and customer service for both resellers and end-users. In addition, we also generate revenue through pay-per-click advertising and the sale of names from our portfolio of domain names and through the OpenSRS Domain Expiry Stream. The revenue associated with names sales and advertising has recently experienced flat to declining trends due to the uncertainty around the implementation of ICANN's New gTLD Program, lower traffic and advertising yields in the marketplace, which we expect to continue.

From time-to-time certain of our vendors provide us with market development funds to expand or maintain the market position for their services. Any decision by these vendors to cancel or amend these programs for any reason may result in payments in future periods not being commensurate with what we have achieved during past periods.

Sales of domain names from our domain portfolio have a negative impact on our advertising revenue as these names are no longer available for advertising purposes. In addition, the timing of larger domain names portfolio sales is unpredictable and may lead to significant quarterly fluctuations in our Portfolio revenue. In the fourth quarter of 2019, the Company disposed of its remaining domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio revenue to materially decline in Fiscal 2020 and thereafter.

**Critical Accounting Policies**

The preparation of our consolidated financial statements in conformity with GAAP requires us to make estimates and judgements that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. There have been no material changes to the critical accounting policies and estimates as previously disclosed in Part II, Item 7 of our 2019 Annual Report other than accounting policies over revenue recognition for our new MSE agreement. For further information on our critical accounting policies and estimates, see Note 3 – Recent Accounting Pronouncements to the consolidated financial statements of the Company in Part I, Item 1 in this Quarterly Report on Form 10-Q.

**Current COVID-19 Response**

*Our Employees*

Tucows is a global business. Our first consideration during the global pandemic as a result of the disease caused by the COVID-19 outbreak is for the health and safety of our employees, our customers and their communities, all around the world. Tucows has long encouraged a culture of remote work even prior to this global pandemic, and on Sunday March 8, 2020 Tucows' executive leadership announced that all employees who could conceivably work from home were encouraged to do so. Tucows is actively and strongly encouraging its workforce to heed travel and all other emergency advisories, including social distancing and where appropriate, self-isolation. We expect our work from home policy to remain in effect until emergency state and governmental declarations where we have physical offices have ended and we believe the risk of community spread of the disease has subsided. Given our experience with remote work prior to COVID-19, we have not and do not expect to have productivity issues while the overwhelming majority of our office-based workforce is dispersed.

For the small group of employees who are unable work from home during this time, including our order fulfillment and Fiber installation teams, many of whom work in the field, they are encouraged to practice social distancing and to continue to follow hygiene best practices and safety protocols as outlined by the Centers for Disease Control and Prevention. At the initial stage of the COVID-19 outbreak, we took steps to cancel and reschedule all in-home installation and service appointments across our Ting Fiber footprint. Since then, the Ting Internet team has established an install solution for our employees and customers that minimizes risks associated with person-to-person contact.

*Our Customers*

We recognize the important role we play within the Internet space and are committed to continue providing quality service during the COVID-19 outbreak. Services like individual and wholesale domain names, email and hosting do not rely on in-person interaction or the supply chain in the same way physical products and services do. We are providing uninterrupted services for all Domains related services, across our OpenSRS, Enom, Ascio, EPAG & Hover brands.

Our new MSE business is without any physical storefronts, and is similarly well-positioned to weather this event.

Our Fiber Internet business does not have bandwidth caps or other such limitations. Likewise, our networks are built with the capacity to accommodate future needs. To help our customers remain connected at home during this time, we upgraded all our lower-tier fiber customers to symmetrical gigabit access at no charge. Any additional traffic from our customers working from home has not had and is not expected to have any negative impact on connectivity. As discussed above, our install solution was implemented in early May 2020. With this service limitation, new customer acquisition will remain slower than pre-pandemic levels of growth and installation. Even with an install solution that minimizes risks, customers may be unwilling to have service personnel visit their homes or offices.

*Our Community*

Tucows believes the Internet is essential infrastructure and an immensely powerful tool, especially in times of crises where coordination is essential.

From an early point in the current global crisis, it was clear to us that we were going to need to do something new and different in how we responded to COVID-19 related domain registrations. Many of these domains are registered for good, helpful purposes, such as community organization, dissemination of healthcare information, and recording people's experiences through this pandemic. Others, however, purport to sell COVID-19 cures, vaccines, or tests, none of which are legitimately available on the market at the time of the registration and many of which pose a significant health risk to the general public. There are three major components to our COVID-19 activities related to domain registrations: (i) identification, (ii) assessment for harm, and (iii) stakeholder engagement. It is important to note that our response to each and every issue that we find is contextual and dependent on the specific circumstances. We expect to return to our regular procedures as the pandemic and corresponding risks subsides. Although this approach vastly increases the burden on our compliance staff and puts us in the uncomfortable position of having to assess the level of harm represented by a COVID-related domain and the website to which it resolves - we feel these circumstances are exceptional and are determined to do our part.

In order to provide Internet access and assistance to residents of cities and towns that are part of the Ting Fiber network, we have set up free, fiber-fed, drive-up Wi-Fi hotspots. These hotspots enable those with no home Internet access, or insufficient access, to access critical services like online learning and telehealth services, work remotely, check in on and access vital health, government and other services and generally access information. These hotspots will remain in operation as long as they are needed and as long as it is safe and prudent to do so.

We have not experienced any material resource constraints nor do we foresee requiring any material expenditures to continue to implement our business continuity plans described above.

**Current and expected COVID-19 Impacts**

*Financial & Operational Impacts*

Further to the below discussion within this Quarterly Report around the financial condition and results of operations for the current period financial results, the current impact from COVID-19 has been limited to the Network Access segment, primarily impacting Mobile Services. Management continues to assess the impact on a daily basis and expects continued impact through the fourth quarter of 2020, should the COVID-19 pandemic persist. On a segment basis, our current assessment is as follows:

Network Access – Mobile Services*:*

On August 1, 2020, the Company and its wholly owned Subsidiary Ting, Inc. entered into an Asset Purchase Agreement (the "Purchase Agreement") with DISH pursuant to which Ting sold its mobile customer relationships, and mobile handset and SIM inventory to DISH and granted the right to use and purchase the Ting brand. Select MNO agreements previously established to operate the Ting Mobile MVNO business will also be assigned to DISH as part of this Purchase Agreement. Ting, Inc. only retains a small subset of customers to which it continues to provide retail mobile services. Consistent with prior periods, COVID-19 has impacted the demand for our Mobile Services as customer usage patterns changed, which has had a corresponding negative impact on our revenues. We do not expect the impact to substantially worsen over the coming months as we have seen usage stabilize during the current period. Our exposure is also significantly limited given the above mentioned sale of the majority of our customer relationships to DISH as part of the purchase agreement in the current period. Our new MSE platform and professional services businesses are completely online and do not rely on physical storefronts to attract or service customers' needs. We are fully prepared to continue providing uninterrupted Mobile related enablement services to our MVNO customers. We have not and do not expect a negative COVID-19 impact on our new MSE platform and professional services revenue, nor do we expect any impact to substantially worsen over the coming months.

Network Access – Fiber Internet Services*:*

As discussed above, upon news of the COVID-19 outbreak, we took the major step to cancel and reschedule all in-home installation and service appointments across our Ting Fiber footprint. Since then, the Ting Internet team has established a smart-install solution. This smart-install solution is faster and more efficient than our existing process, all while protecting the health and safety of our employees and customers alike. Although new customer installations initially slowed near the end of the first quarter of 2020, we are now seeing returned growth in both subscribers under management as well as serviceable addresses relative to the prior quarter. Additionally, our existing customer base and most recent acquisition of Cedar both continue to provide increased recurring revenue for us to support this business.

Domain Services:

Domain Services are foundational to the functioning of the Internet. As discussed above, services like individual and wholesale domain names, email and hosting do not rely on in-person interaction or the supply chain in the same way physical products and services do. We have not experienced any negative COVID-19 related impacts, either financially or operationally for Domains related services, across our OpenSRS, Enom, Ascio, EPAG & Hover brands. As more businesses face the reality of prolonged physical shutdown and move to establish an online presence, we have seen growth in this segment, primarily driven by large volume resellers in our OpenSRS brand where total domains under management increased 591,018 since June 30, 2020. This growth rate in domains under management was driven by the Pandemic, and may not be sustained in the future as domain registrations plateau. Our results of operations for the current period financial results are in line with management's expectation for the period given product, customer mix and current brand trajectories. We will continue to monitor the impact but do not foresee any negative financial or operational impacts associated with this segment.

*Liquidity & Financial Resource Impacts*

For a complete assessment of our liquidity and covenant positions please reference the relevant discussions within this Quarterly Report. We have experienced no significant change to our liquidity position or credit risk as a result of the financial and operational impacts related to COVID-19, as discussed above. Our cost or access to funding sources has not changed and is not reasonably likely to change in the near future as a result of the pandemic. Our sources and uses of cash have not been materially impacted and there is no known material uncertainty about our ongoing ability meet covenants or repayment terms of our credit agreements at this time.

*Internal Controls over Financial Reporting*

Tucows has long encouraged a culture of remote work even prior to COVID-19. Our financial reporting systems and our internal controls over financial reporting and disclosure controls and procedures are already adapted for a remote work environment. There have been no changes during the current period that, as a result of COVID-19, would affect our ability to maintain these systems and controls.

*COVID-19 Related Assistance & Support*

Currently, Tucows has not received any form of financial or resource related assistance from any government or local authority. There do exist programs in the regions in which we operate that are designed to support corporations like Tucows during this time, primarily in the form employee wage subsidization. Tucows will continue to review the applicability of these programs but does not expect to seek any assistance.

Across our businesses, we have been able to defer portions of installment taxes payable to various Government bodies as payment timelines have been extended in response to the pandemic.

*Accounting Policy Impacts*

Given the rapidly changing nature of COVID-19 developments and the current uncertainty around the length and severity these developments could create, Tucows does not have sufficient evidence to anticipate a material impairment with respect to goodwill, intangible assets, long-lived assets, or right of use assets. We will continue to monitor the impacts closely and as more information becomes available. We do not foresee any changes in accounting judgements in relation to COVID-19 that will have a material impact on our financial statements.

**RESULTS OF OPERATIONS FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2020 AS COMPARED TO THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2019**

**NET REVENUES**

***Network Access Services***

The Company generates Network Access Services revenues primarily through the provisioning of retail mobile services, mobile platform and professional services supporting MVNOs, fixed high-speed Internet access services and other revenues, including billing solutions to small ISPs.

*Mobile Services - Retail Mobile Services*

Ting Mobile wireless usage contracts grant customers access to standard talk, text and data mobile services. Ting Mobile contracts are billed based on the actual amount of monthly services utilized by each customer during their billing cycle and charged to customers on a postpaid basis. Voice minutes, text messages and megabytes of data are each billed separately based on a tiered pricing program. The Company recognizes revenue for Ting Mobile usage based on the actual amount of monthly services utilized by each customer. On August 1, 2020, the Company and its wholly owned Subsidiary Ting, Inc. entered into an Asset Purchase Agreement (the “Purchase Agreement”) with DISH pursuant to which Ting sold substantially all of its retail mobile customer relationships, and mobile handset and SIM inventory to DISH and granted the right to use and option to purchase the Ting brand. Select MNO agreements previously established to operate the Ting Mobile MVNO business will also be assigned to DISH as part of this Purchase Agreement. Ting, Inc. only retains a small subset of customers to which it continues to provide retail mobile services. All future revenues associated with Retail Mobile Services stream will only be for this subset of customers retained by Ting, Inc.

Ting Mobile services are primarily contracted through the Ting website, for one month at a time and contain no commitment to renew the contract following each customer's monthly billing cycle. The Company's billing cycle for all Ting Mobile customers is computed based on the customer's activation date. In order to recognize revenue as the Company satisfies its obligations, we compute the amount of revenues earned but not billed from the end of each billing cycle to the end of each reporting period. In addition, revenues associated with the sale of wireless devices and accessories are recognized when title and risk of loss is transferred to the customer and shipment has occurred. Incentive marketing credits given to customers are recorded as a reduction of revenue.

As part of the DISH Purchase Agreement, as a form of consideration for the sale of the customer relationships, the Company receives a payout on the margin associated with the legacy customer base sold to DISH, over a period of 10 years. This has been classified as Other Income and not considered revenue in the current period

*Mobile Services - Mobile Platform Services*

Tucows' MSE platform provides network access, provisioning and billing services for MVNOs. These platform fees are billed to our MVNO customers monthly, on a postpaid basis. The fees are based on the volume of their subscribers utilizing the platform during a given month. The Company recognizes revenue over this new revenue stream as the Company satisfies its obligations to provide MSE services on a monthly basis. For any bundled professional services where collection is collected before the service period as part of MSE Platform Revenues, the professional services revenue is initially deferred and recognized only as the Company performs its obligation to provide professional services.

*Mobile Services - Other Professional Services*

This revenue stream includes any other professional services, including transitional services, earned in connection with Tucows' new MSE business. These are billed to our customers monthly at set and established rates for services provided in period. The Company recognizes revenue over this new revenue stream as the Company satisfies its obligations to provide professional services.

*Fiber Internet Services*

Fiber Internet Services derive revenues from providing Ting Internet to individuals and small businesses in select cities. In addition, we provide billing, provisioning and customer care software solutions to ISPs through our Platypus billing software. Ting Internet access contracts provide customers Internet access at their home or business through the installation and use of our fiber optic network. Ting Internet contracts are generally prepaid and grant customers with unlimited bandwidth based on a fixed price per month basis. Since consideration is collected before the service period, revenue is initially deferred and recognized as the Company performs its obligation to provide Internet access.

Ting Internet services are primarily contracted through the Ting website, for one month at a time and contain no commitment to renew the contract following each customer’s monthly billing cycle. The Company’s billing cycle for all Ting Internet access customers is computed based on the customer’s activation date. In order to recognize revenue as the Company satisfies its obligations, we compute the amount of revenues earned but not billed from the end of each billing cycle to the end of each reporting period. In addition, revenues associated with the sale of Internet hardware to subscribers are recognized when title and risk of loss is transferred to the subscriber and shipment has occurred. Incentive marketing credits given to customers are recorded as a reduction of revenue.

In those cases, where payment is not received at the time of sale, revenue is not recognized until contract inception unless the collection of the related accounts receivable is reasonably assured. The Company records costs that reflect expected refunds, rebates and credit card charge-backs as a reduction of revenues at the time of the sale based on historical experiences and current expectations.

***Domain Services***

*Wholesale - Domain Services*

Domain registration contracts, which can be purchased for terms of one to ten years, provide our resellers and retail registrant customers with the exclusive right to a personalized internet address from which to build an online presence. The Company enters into domain registration contracts in connection with each new, renewed and transferred-in domain registration. At the inception of the contract, the Company charges and collects the registration fee for the entire registration period. Though fees are collected upfront, revenue from domain registrations are recognized rateably over the registration period as domain registration contracts contain a 'right to access' license of IP, which is a distinct performance obligation measured over time. The registration period begins once the Company has confirmed that the requested domain name has been appropriately recorded in the registry under contractual performance standards.

Historically, our wholesale domain service has constituted the largest portion of our business and encompasses all of our services as an accredited registrar related to the registration, renewal, transfer and management of domain names. In addition, this service fuels other revenue categories as it often is the initial service for which a reseller will engage us, enabling us to follow on with other services and allowing us to add to our portfolio by purchasing names registered through us upon their expiration. Domain services will continue to be the largest portion of our business and will further fuel our ability to sell add-on services.

The Company is an ICANN accredited registrar. Thus, the Company is the primary obligor with our reseller and retail registrant customers and is responsible for the fulfillment of our registrar services to those parties. As a result, the Company reports revenue in the amount of the fees we receive directly from our reseller and retail registrant customers. Our reseller customers maintain the primary obligor relationship with their retail customers, establish pricing and retain credit risk to those customers. Accordingly, the Company does not recognize any revenue related to transactions between our reseller customers and their ultimate retail customers.

*Wholesale – Value-Added Services*

We derive revenue from domain related value-added services like digital certifications, WHOIS privacy and hosted email and by providing our resellers and retail registrant customers with tools and additional functionality to be used in conjunction with domain registrations. All domain related value-added services are considered distinct performance obligations which transfer the promised service to the customer over the contracted term. Fees charged to customers for domain related value-added services are collected at the inception of the contract, and revenue is recognized on a straight-line basis over the contracted term, consistent with the satisfaction of the performance obligations.

We also derive revenue from other value-added services, which primarily consists of Internet hosting services on the OpenSRS and eNom domain expiry streams.

*Retail*

We derive revenues from Hover and eNom's retail properties through the sale of retail domain name registration and email services to individuals and small businesses.

*Portfolio*

The Company sells the rights to its portfolio domains or names acquired through the Company's domain expiry stream. Revenue generated from sale of domain name contracts, containing a distinct performance obligation to transfer the domain name rights under the Company's control, is generally recognized once the rights have been transferred and payment has been received in full. Domain portfolio names are sold through our premium domain name service, auctions or in negotiated sales. In the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio revenue to materially decline in Fiscal 2020 and thereafter.

The following table presents our net revenues, by revenue source (*Dollar amounts in thousands of U.S. dollars*):

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | $ 7,019 | $ 21,722 | $ 44,734 | $ 63,516 |
| Mobile platform services | 376 | - | 376 | - |
| Other professional services | 1,457 | - | 1,457 | - |
| Total Mobile | 8,852 | 21,722 | 46,567 | 63,516 |
| | | | | |
| Fiber Internet Services | 4,657 | 2,890 | 13,379 | 7,977 |
| Total Network Access Services | 13,509 | 24,612 | 59,946 | 71,493 |
| | | | | |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 47,261 | 47,259 | 139,430 | 136,336 |
| Value Added Services | 4,674 | 5,154 | 14,415 | 14,113 |
| Total Wholesale | 51,935 | 52,413 | 153,845 | 150,449 |
| | | | | |
| Retail | 8,652 | 8,713 | 25,669 | 26,138 |
| Portfolio | 215 | 2,391 | 958 | 3,119 |
| Total Domain Services | 60,802 | 63,517 | 180,472 | 179,706 |
| | | | | |
| | $ 74,311 | $ 88,129 | $ 240,418 | $ 251,199 |
| (Decrease) increase over prior period | $ (13,818) | | $ (10,781) | |
| (Decrease) increase - percentage | (16)% | | (4)% | |

The following table presents our revenues, by revenue source, as a percentage of total revenues (*Dollar amounts in thousands of U.S. dollars*):

| | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | 9% | 25% | 19% | 25% |
| Mobile platform services | 1% | 0% | 0% | 0% |
| Other professional services | 2% | 0% | 1% | 0% |
| Total Mobile | 12% | 25% | 20% | 25% |
| | | | | |
| Fiber Internet Services | 6% | 3% | 6% | 3% |
| Total Network Access Services | 18% | 28% | 26% | 28% |
| | | | | |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 64% | 53% | 57% | 55% |
| Value Added Services | 6% | 6% | 6% | 6% |
| Total Wholesale | 70% | 59% | 63% | 61% |
| | | | | |
| Retail | 12% | 10% | 11% | 10% |
| Portfolio | 0% | 3% | 0% | 1% |
| Total Domain Services | 82% | 72% | 74% | 72% |
| | | | | |
| | 100% | 100% | 100% | 100% |

Total net revenues for the three months ended September 30, 2020 decreased by $13.8 million, or 16%, to $74.3 million from $88.1 million when compared to the three months ended September 30, 2019. The three-month decrease in revenue was primarily driven by $12.9 million of reduced revenues attributable to our Mobile Services streams that were impacted by both the sale of the majority of the customer base of Ting Mobile to DISH Wireless on August 1, 2020 and the shutdown of Roam Mobility brands impacted by loss of mobile subscribers and reduced usage related to COVID-19 when compared to the three months ended September 30, 2019. As part of the DISH Purchase Agreement, as a form of consideration for the sale of the customer relationships, the Company receives a payout on the margin associated with the legacy customer base sold to DISH over the 10 year term of the agreement. This has been classified as Other Income and not considered revenue in the current period. Additionally, further decreases in domain name services revenue of $2.7 million, driven by the fact that the three months ended September 30, 2019 included a large one-time Portfolio sale as we began to ramp up the disposition of our domains portfolio, which culminated in the fourth quarter of 2019. These decreases were offset by Fiber Internet services revenues which increased $1.8 million, driven by our recent first quarter acquisition of Cedar as well as through the expansion of our existing Ting Internet footprint.

Total net revenues for the nine months ended September 30, 2020 decreased by $10.8 million, or 4%, to $240.4 million from $251.2 million when compared to the nine months ended September 30, 2019. The nine-month decrease in revenue was primarily driven $16.9 million of reduced revenues attributable to our Mobile Services streams. As discussed above and echoed in prior periods, this decrease is result of a decline in mobile subscribers and reduced usage related to COVID-19 since the onset of the pandemic. The nine months ended September 30, 2019 were not characterized by this same reduced usage seen during the pandemic. Outside of the impacts of the pandemic year over year, the most recent decisions to shut down the Roam Mobility brands (in the second quarter of 2020) and to enter into the Purchase Agreement with DISH (current period) to sell the customer relationships of Ting Mobile have directly resulted in the decrease in revenue for the nine months ended September 30, 2020. As part of the DISH Purchase Agreement, as a form of consideration for the sale of the customer relationships, the Company receives a payout on the margin associated with the legacy customer base sold to DISH. This has been classified as Other Income and not considered revenue in the current period. These decreases were offset by increased Fiber Internet services revenues which increased $5.4 million, driven by our recent first quarter acquisition of Cedar as well as through the expansion of our existing Ting Internet footprint. Smaller increases from Domains Services of $0.8 million also helped offset any revenue decreases in period, which was driven by an overall increase in domains under management relative to the nine months ended September 30, 2019.

Deferred revenue from domain name registrations and other Internet services at September 30, 2020 increased by $4.9 million to $154.2 million from $149.3 million at December 31, 2019 primarily due to current period billings for domain name registration and service renewals.

During the three and nine months ended September 30, 2020, no customer accounted for more than 10% of total revenue. For the three and nine months ended September 30, 2019, no customer accounted for more than 10% of total revenue. As at September 30, 2020, DISH accounted for 46% of total accounts receivable and at December 31, 2019 no customer accounted for more than 10% of accounts receivable. Though a significant portion of the Company's domain services revenues are prepaid by our customers, where the Company does collect receivables, significant management judgment is required at the time revenue is recorded to assess whether the collection of the resulting receivables is reasonably assured. On an ongoing basis, we assess the ability of our customers to make required payments. Based on this assessment, we expect the carrying amount of our outstanding receivables, net of allowance for doubtful accounts, to be fully collected.

***Network Access Services***

*Mobile Services*

Net revenues from Mobile Services for the three months ended September 30, 2020 decreased by $12.8 million or 59% to $8.9 million as compared to the three months ended September 30, 2019. This decrease is driven by a decline in Retail Mobile Services revenue, which decreased by $14.7 million compared to September 30, 2019, to $7.0 million. Ting Mobile accounts for $13.9 million of this decrease (of which $0.8 million is reduced device revenues and $13.1 million relates to service revenues), followed by Roam Mobility at $0.8 million of the total decrease. The decline in Retail Mobile Services revenue is driven by the sale of the Ting customer base on August 1, 2020 to DISH and the shutdown of Roam Mobility last quarter. In addition to these changes, subscriber churn and reduced usage related to the COVID-19 pandemic also resulted in lower revenues relative to the three months ended September 30, 2019. This decrease is offset by an increase in Mobile Platform services revenues by $0.4 million and Other Professional Services revenues by $1.5 million, both a result of the new MSE business created as a result of the DISH purchase agreement. The current period only reflects one month of retail mobile services revenue (July 2020) at the existing subscriber base of Ting Mobile. Subsequent to the sale to DISH, the Retail Mobile Services revenue relates to a small subset of customers retained by the Company. The consideration for the sale of the subscriber base to DISH is captured as Other Income in the current period and described below.

Net revenues from Mobile Services for the nine months ended September 30, 2020 decreased by $16.9 million or 27% to $46.6 million as compared to the nine months ended September 30, 2019. This decrease is driven by a decline in Retail Mobile Services revenue, which decreased by $18.8 million compared to September 30, 2019, to $44.7 million. Ting Mobile accounts for $16.6 million of this decrease (of which $0.1 million is reduced device revenues and $16.5 million relates to service revenues), followed by Roam Mobility at $2.2 million of the total decrease. The decline in Retail Mobile Services revenue is driven by the sale of the Ting customer base on August 1, 2020 to DISH and the shutdown of Roam Mobility last quarter. In addition to these changes, continued subscriber churn and reduced usage related to the COVID-19 pandemic for two full quarters in 2020 also resulted in lower revenues relative to the nine months ended September 30, 2019. This decrease is offset by an increase in Mobile Platform services revenues by $0.4 million and Other Professional Services revenues by $1.5 million, both a result of the new MSE business created as a result of the DISH purchase agreement in period. The current period only reflects seven months of retail mobile services revenue at the existing subscriber base of Ting Mobile, versus a complete nine-month period in 2019. Subsequent to the sale to DISH, the Retail Mobile Services revenue relates to a small subset of customers retained by the Company. The consideration for the sale of the subscriber base to DISH is captured as Other Income in the current period and described below.

*Fiber Internet Services*

Revenues from Ting Internet and billing solutions generated $4.7 million in revenue during the three months ended September 30, 2020, up $1.8 million or 62% compared to the three months ended September 30, 2019. This growth is driven by the recent first quarter acquisition of Cedar. Cedar contributed $1.1 million of the increase in revenue during the current period, with $0.7 million related to the continued expansion of our Ting Internet footprint in existing Ting towns throughout the United States.

Revenues from Ting Internet and billing solutions generated $13.4 million in revenue during the nine months ended September 30, 2020, up $5.4 million or 68% compared to the nine months ended September 30, 2019. This growth is driven by the recent first quarter acquisition of Cedar. Cedar contributed $3.5 million of the increase in revenue during the current period, with $1.9 million related to the continued expansion of our Ting Internet footprint in existing Ting towns throughout the United States.

As of September 30, 2020, Ting Internet had access to 50,000 serviceable addresses and 14,000 active accounts under its management compared to having access to 34,000 serviceable addresses and 10,000 active accounts under its management as of September 30, 2019. These figures include the increase in serviceable addresses and accounts attributable to the prior quarter Cedar acquisition.

***Domain Services***

*Wholesale*

During the three months ended September 30, 2020, Wholesale domain services revenue remained flat at $47.3 million, when compared to the three months ended September 30, 2019. Increases from Wholesale domain registration of $1.8 million from OpenSRS and EPAG brands driven by COVID-19 registration growth were offset by decreases of $1.8 million from Enom and Ascio brands, both of which have seen a decline in registrations by non-core customers relative to the three months ended September 30, 2019.

During the nine months ended September 30, 2020, Wholesale domain services revenue increased by $3.1 million or 2% to $139.4 million, when compared to the nine months ended September 30, 2019. The nine-month increase was primarily driven by a $4.6 million increase in revenue related to the prior year acquisition of Ascio. Ascio revenues now represent a full three quarters of earned revenue compared to the stub period of attributable revenue during the nine months ended September 30, 2019. Additionally, we saw a further increase in Wholesale domain revenues of $3.0 million from our other domain services brands, namely OpenSRS and EPAG due to the increase in domains under management for these brands associated with an uptick in registrations during the third quarter of 2020 in connection with COVID-19. As more businesses establish an online presence during this time, we have seen growth from large volume resellers across these brands. This has had a marginal impact on revenue in the current period but will have a carryforward impact in subsequent periods as revenues are recognized from previously deferred billings. These increases were offset by a decrease of $4.5 million in Wholesale domain revenues related to our eNom brand, driven by continued decline in domain registrations by non-core customers relative to the nine months ended September 30, 2019.

Total domains that were managed under the OpenSRS, eNom, EPAG, and Ascio domain services increased by 1.2 million domain names to 25.0 million as of September 30, 2020, when compared to 23.9 million at September 30, 2019. The increase is a driven by the continued growth in registrations through 2020 as a result of the COVID-19 pandemic.

During the three months ended September 30, 2020, value-added services decreased by $0.5 million to $4.7 million compared to the three months ended September 30, 2019. The three-month decreases were primarily driven by a decrease in expiry revenue of $0.2 million, a decrease in hosting revenues of $0.2 million and other small decreases in Digital Certificates, Email and Other revenues of $0.1 million.

During the nine months ended September 30, 2020, value-added services increased by $0.3 million to $14.4 million compared to the nine months ended September 30, 2019. The nine-month increases were primarily driven by an increase in expiry revenue of $1.0 million, a decrease in hosting revenues of $0.4 million, a decrease in Digital Certificates revenues of $0.2 million, and other small decreases in Email and Other revenues of $0.1 million.

*Retail*

Net revenues from retail for the three months ended September 30, 2020, as compared to the three months ended September 30, 2019, remained relatively flat at $8.7 million.

Net revenues from retail for the nine months ended September 30, 2020, as compared to the nine months ended September 30, 2019, decreased by less than $0.4 million to $25.7 million. Revenue decreased as a result of a shrinking eNom customer base, driven by non-core customers.

*Portfolio*

Net revenues from portfolio for the three months ended September 30, 2020, decreased by $2.2 million to $0.2 million, as compared to the three months ended September 30, 2019. This decrease is due to lower proceeds from individual portfolio sales compared to the three months ended September 30, 2019, which included a large one-time portfolio sale as the Company began to ramp up selling its remaining portfolio. By the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio revenue to materially decline in Fiscal 2020 and thereafter.

Net revenues from portfolio for the nine months ended September 30, 2020 similarly decreased by $2.1 million to $1.0 million, as compared to the nine months ended September 30, 2019. Consistent with the above discussion, the third quarter of 2019 included a significant one-time portfolio sale as the Company began to ramp up selling its remaining portfolio. By the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio revenue to materially decline in Fiscal 2020 and thereafter.

**COST OF REVENUES**

***Network Access Services***

*Mobile Services - Retail Mobile Services*

Cost of revenues for Retail Mobile Services includes the costs of provisioning mobile services, which is primarily our customers' voice, messaging, data usage provided by our Network Operator, and the costs of providing mobile phone hardware, which is the cost of mobile phone devices and SIM cards sold to our customers, order fulfillment related expenses, and inventory write-downs.

*Mobile Services - Mobile Platform Services*

Cost of revenues, if any, to provide the MSE Platform services including network access, provisioning and billing services for MVNOs.

*Mobile Services - Other Professional Services*

Cost of revenues to provide professional services, including transitional services, to our MVNO customers to help support their businesses. This includes any personnel and contractor fees for any client service resources retained by the Company. Only a subset of the Company's employee base provides professional services to our MVNO customers, this cost reflects that group of resources.

*Fiber Internet Services*

Cost of revenues primarily includes the costs for provisioning high speed Internet access, which is comprised of network access fees and software licenses and the costs of providing hardware. Hardware costs are comprised of network routers sold to our customers, order fulfillment related expenses, inventory write-downs and fees paid to third-party service providers primarily for printing services in connection with billing services to ISPs.

***Domain Services***

*Wholesale - Domain Services*

Cost of revenues for domain registrations represents the amortization of registry and accreditation fees on a basis consistent with the recognition of revenues from our customers, namely rateably over the term of provision of the service. Registry fees, the primary component of cost of revenues, are paid in full when the domain is registered, and are initially recorded as prepaid domain registry fees. This accounting treatment reasonably approximates a recognition pattern that corresponds with the provision of the services during the period. Market development funds that do not represent a payment for distinct goods or services provided by the Company, and thus do not meet the criteria for revenue recognition under ASU 2014-09, are reflected as cost of goods sold and are recognized as earned.

*Wholesale - Value-Added Services*

Costs of revenues for value-added services include licensing and royalty costs related to the provisioning of certain components of related to hosted email and fees paid to third-party hosting services. Fees payable for trust certificates are amortized on a basis consistent with the provision of service, generally one year, while email hosting fees and monthly printing fees are included in cost of revenues in the month they are incurred.

*Retail*

Costs of revenues for our provision and management of Internet services through our retail sites, Hover.com and the eNom branded sites, include the amortization of registry fees on a basis consistent with the recognition of revenues from our customers, namely rateably over the term of provision of the service. Registry fees, the primary component of cost of revenues, are paid in full when the domain is registered, and are recorded as prepaid domain registry fees.

*Portfolio*

Costs of revenues for our portfolio represent the amortization of registry fees for domains added to our portfolio over the renewal period, which is generally one year, the value attributed under intangible assets to any domain name sold and any impairment charges that may arise from our assessment of our domain name intangible assets. Payments for domain registrations are payable for the full term of service at the time of activation of service and are recorded as prepaid domain registry fees and are expensed rateably over the renewal term.

***Network expenses***

Network expenses include personnel and related expenses, depreciation and amortization, communication costs, equipment maintenance, stock-based compensation and employee and related costs directly associated with the management and maintenance of our network. Communication costs include bandwidth, co-location and provisioning costs we incur to support the supply of all our services.

The following table presents our cost of revenues, by revenue source:

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | $ 3,440 | $ 11,171 | $ 21,957 | $ 32,721 |
| Mobile platform services | - | - | - | - |
| Other professional services | 1,267 | - | 1,267 | - |
| Total Mobile | 4,707 | 11,171 | 23,224 | 32,721 |
| | | | | |
| Fiber Internet Services | 1,682 | 936 | 5,063 | 2,960 |
| Total Network Access Services | 6,389 | 12,107 | 28,287 | 35,681 |
| | | | | |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 36,812 | 38,337 | 109,635 | 110,993 |
| Value Added Services | 724 | 773 | 2,271 | 2,306 |
| Total Wholesale | 37,536 | 39,110 | 111,906 | 113,299 |
| | | | | |
| Retail | 4,298 | 4,359 | 12,751 | 13,126 |
| Portfolio | 107 | 180 | 364 | 455 |
| Total Domain Services | 41,941 | 43,649 | 125,021 | 126,880 |
| | | | | |
| Network Expenses: | | | | |
| Network, other costs | 2,612 | 2,254 | 7,513 | 7,034 |
| Network, depreciation and amortization costs | 3,315 | 2,545 | 9,902 | 6,872 |
| Network, impairment | 113 | - | 1,638 | - |
| | 6,040 | 4,799 | 19,053 | 13,906 |
| | | | | |
| | $ 54,370 | $ 60,555 | $ 172,361 | $ 176,467 |
| (Decrease) increase over prior period | $ (6,185) | | $ (4,106) | |
| (Decrease) increase - percentage | -10% | | -2% | |

The following table presents our cost of revenues, as a percentage of total cost of revenues for the periods presented:

| | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Network Access Services: | | | | |
| Mobile Services | | | | |
| Retail mobile services | 6% | 18% | 13% | 19% |
| Mobile platform services | 0% | 0% | 0% | 0% |
| Other professional services | 2% | 0% | 1% | 0% |
| Total Mobile | 8% | 18% | 14% | 19% |
| | | | | |
| Fiber Internet Services | 3% | 2% | 3% | 2% |
| Total Network Access Services | 11% | 20% | 17% | 21% |
| | | | | |
| Domain Services: | | | | |
| Wholesale | | | | |
| Domain Services | 69% | 64% | 64% | 63% |
| Value Added Services | 1% | 1% | 1% | 1% |
| Total Wholesale | 70% | 65% | 65% | 64% |
| | | | | |
| Retail | 8% | 7% | 7% | 7% |
| Portfolio | 0% | 0% | 0% | 0% |
| Total Domain Services | 78% | 72% | 72% | 71% |
| | | | | |
| Network Expenses: | | | | |
| Network, other costs | 5% | 4% | 4% | 4% |
| Network, depreciation and amortization costs | 6% | 4% | 6% | 4% |
| Network, impairment | 0% | 0% | 1% | 0% |
| | 11% | 8% | 11% | 8% |
| | | | | |
| | 100% | 100% | 100% | 100% |

Total cost of revenues for the three months ended September 30, 2020, decreased by $6.2 million, or 10%, to $54.4 million from $60.6 million in the three months ended September 30, 2019. The three-month decrease was driven by $6.5 million of reduced costs attributable to our Mobile Services brands. As discussed above in the Net Revenue section, Ting Mobile and Roam Mobility were impacted both by the loss of mobile subscribers and reduced usage related to COVID-19 when compared to the three months ended September 30, 2019. as well as the fact that substantially all of the customer relationships associated with Ting Mobile were sold to DISH in the current period and that Roam Mobility was shutdown in the prior quarter. Both these contribute to the three months ended September 30, 2020 having significantly lower costs. Additionally, further decreases in domain name services costs of $1.7 million, related to continued erosion in Wholesale and Retail domain registrations by non-core customer primarily from our existing Domain Services brands, namely eNom. These decreases were offset by increased network expenses from continued Fiber network expansion of $0.5 million as well as increased Fiber access costs of $1.4 million, driven by both our recent first quarter acquisition of Cedar as well as through the expansion of our existing Ting Internet footprint.

Total cost of revenues for the nine months ended September 30, 2020, decreased by $4.1 million, or 2%, to $172.4 million from $176.5 million in the nine months ended September 30, 2019. The nine-month decrease was driven by $9.5 million of reduced costs attributable to our Mobile Services brands. Consistent with above, the nine months ended September 30, 2020, results now include two full quarters impacted from loss of mobile subscribers and reduced usage related to COVID-19, in addition to the 2020 results including the sale of Ting Mobile customers and the shutdown of Roam Mobility. Both of these contribute to the nine months ended September 30, 2020 having significantly lower costs. Additionally, further decreases in domain name services of $1.9 million, related to continued erosion in Wholesale and Retail domain registrations by non-core customers primarily from our existing Domain Services brands, namely eNom. These decreases were offset by increased network expenses from continued Fiber network expansion of $1.2 million, a $1.5 million impairment related to Ting TV, a product under development for Ting Fiber that was discontinued; as well as increased Fiber access costs of $4.1 million, driven by both our recent first quarter acquisition of Cedar as well as through the expansion of our existing Ting Internet footprint.

Prepaid domain registration and other Internet services fees as of September 30, 2020 increased by $4.0 million, or 4%, to $113.2 million from $109.2 million at December 31, 2019 primarily due to current period domain name registration and annual service renewals.

***Network Access Services***

*Mobile Services*

Cost of revenues from Mobile Services for the three months ended September 30, 2020, as compared to the three months ended September 30, 2019, decreased by $6.5 million or 58% to $4.7 million. This is driven by a decrease in Retail Mobile Services costs of $7.7 million, of which $7.1 million relates to Ting Mobile (of which $0.9 million is reduced device costs and $6.2 million relates to service costs) and $0.6 million relates to Roam Mobility. Consistent with the above discussion around net revenues, the driving factors for these decreases from the three months ended September 30, 2019 are related to the sale of substantially all of the Ting Mobile customer base in the current period and the shutdown of Roam Mobility in the prior period. Residual Retail Mobile Services costs is also impacted by the ongoing COVID-19 pandemic, characterized by a decline in mobile subscribers and reduced usage which translates into lower costs. The decline also included reduced minimum commitment charges with network operators which decreased by $1.6 million as compared to the three months ended September 30, 2019. This decrease is offset by an increase of $1.3 million related to costs associated with Other Professional Services provided to MVNOs.

Cost of revenues from Mobile Services for the nine months ended September 30, 2020, as compared to the nine months ended September 30, 2019, decreased by $9.5 million or 29% to $23.2 million. This is driven by a decrease in Retail Mobile Services costs of $10.8 million, of which $9.4 million relates to Ting Mobile (of which $0.1 million is reduced device costs and $9.3 million relates to service costs) and $1.4 million relates to Roam Mobility. Consistent with the above discussion around net revenues, the driving factors for these decreases from the nine months ended September 30, 2020 are related to the sale of substantially all of the Ting Mobile customer base in the current period and the shutdown of Roam Mobility in the prior period. Residual Retail Mobile Services costs is also impacted by six months of the COVID-19 pandemic, characterized by a decline in mobile subscribers and reduced usage which translates into lower year-to-date costs. The decline also included reduced minimum commitment charges with network operators which decreased by $2.6 million compared to the nine months ended September 30, 2019. This decrease is offset by an increase of $1.3 million related to costs associated with Other Professional Services provided to MVNOs.

*Fiber Internet Services*

During the three months ended September 30, 2020, costs related to provisioning high speed Internet access and billing solutions increased $0.8 million or 89%, to $1.7 million as compared to $0.9 million during three months ended September 30, 2019. The increase in costs were primarily driven by increased direct costs and bandwidth costs related to the continued expansion of the Ting Fiber network, for both existing towns and cities as well as those acquired via the Cedar acquisition.

During the nine months ended September 30, 2020, costs related to provisioning high speed Internet access and billing solutions increased $2.1 million or 70%, to $5.1 million as compared to $3.0 million during nine months ended September 30, 2019. The increase in costs were primarily driven by increased direct costs and bandwidth costs related to the continued expansion of the Ting Fiber network, for both existing towns and cities as well as those acquired via the Cedar acquisition.

***Domain Services***

*Wholesale*

Costs for Wholesale domain services for the three months ended September 30, 2020 decreased by $1.5 million to $36.8 million, when compared to the three months ended September 30, 2019. This was primarily driven by a $2.5 million decrease in wholesale domain services costs driven by the erosion in registrations by non-core customers for our eNom and Ascio brands. This decrease on eNom and Ascio was offset by increased Wholesale domain service costs of $1.0 million from our other domain services brands, namely OpenSRS and EPAG. This offsetting increase is a result of increased domains under management for these brands associated with an uptick in registrations during the third quarter of 2020 in connection with COVID-19. As more businesses establish an online presence during this time, we have seen growth from large volume resellers across these brands. This has had a marginal impact on costs in the current period and will have a carryforward impact in subsequent periods as costs are recognized from previously deferred billed costs.

Costs for Wholesale domain services for the nine months ended September 30, 2020 decreased by $1.4 million to $109.6 million, when compared to the nine months ended September 30, 2019. This was primarily driven by a $5.1 million decrease in wholesale domain services costs driven by the erosion in registrations by non-core customers for our eNom brand. This decrease on eNom was offset by increased Wholesale domain service costs of $3.8 million from our other domain services brands, namely OpenSRS, EPAG and Ascio. The offsetting increase is largely a result of the prior year acquisition of Ascio, where Ascio costs now represent a full three quarters compared to the stub period of attributable costs during the nine months ended September 30, 2019. To a lesser extent any residual increase was a result of increased domains under management for OpenSRS as a result of COVID-19 impacts discussed above.

Costs for wholesale value-added services for the three months ended September 30, 2020 remained flat at $0.7 million, when compared to the three months ended September 30, 2019.

Costs for wholesale value-added services for the nine months ended September 30, 2020 remained flat at $2.3 million, when compared to the nine months ended September 30, 2019.

*Retail*

Costs for retail for the three months ended September 30, 2020 decreased by $0.1 million, to $4.3 million as compared to the three months ended September 30, 2019. The decrease was a result of an overall declining volume of transactions related to the eNom retail brands.

Costs for retail for the nine months ended September 30, 2020 decreased by $0.3 million, to $12.8 million as compared to the nine months ended September 30, 2019. The decrease was a result of an overall declining volume of transactions related to the eNom retail brands.

*Portfolio*

Costs for portfolio for the three months ended September 30, 2020 remained flat at $0.1 million when compared to the three months ended September 30, 2019. In the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio cost of revenue to materially decline in Fiscal 2020.

Costs for portfolio for the nine months ended September 30, 2020 remained flat at $0.4 million when compared to the nine months ended September 30, 2019. In the fourth quarter of 2019, the Company disposed of its entire domain portfolio, excluding surname domains used in the Realnames email service. The Company expects portfolio cost of revenue to materially decline in Fiscal 2020.

***Network Expenses***

Network costs for the three months ended September 30, 2020 increased by $1.2 million to $6.0 million when compared to the three months ended September 30, 2019. The three-month increase was driven by depreciation as a result of the expansion of the Company's increased network infrastructure associated with the continuing expansion of the Ting Fiber footprint, inclusive of $0.2 million related to the Cedar acquisition.

Network costs for the nine months ended September 30, 2020 increased by $5.2 million to $19.1 million when compared to the nine months ended September 30, 2019. The nine-month increase was driven by depreciation as a result of the expansion of the Company's increased network infrastructure associated with the continuing expansion of the Ting Fiber footprint, inclusive of $0.5 million related to the Cedar acquisition. In addition to these Fiber network increases, the second quarter of 2020 included a $1.5 million impairment related to Ting TV, a product under development for Ting Fiber.

**SALES AND MARKETING**

Sales and marketing expenses consist primarily of personnel costs. These costs include commissions and related expenses of our sales, product management, public relations, call center, support and marketing personnel. Other sales and marketing expenses include customer acquisition costs, advertising and other promotional costs.

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Sales and marketing | $ 8,318 | $ 8,769 | $ 26,521 | $ 26,366 |
| Decrease over prior period | $ (451) | | $ 155 | |
| Decrease - percentage | (5)% | | 1% | |
| Percentage of net revenues | 11% | 10% | 11% | 10% |

Sales and marketing expenses for the three months ended September 30, 2020 decreased by $0.5 million, or 5%, to $8.3 million as compared to the three months ended September 30, 2019. This three-month decrease primarily related to a decrease in other marketing related expenses of $0.8 million and travel related expenses of $0.2 million. The decrease in marketing related expenses were focused in Mobile Services due to the sale of the Ting Mobile customer base to DISH in the current period and shutdown of Roam Mobility in the prior quarter. The overall decrease in sales and marketing expense was partially offset by a $0.5 million increase in people costs driven by the acquisition of Cedar in the first quarter of 2020. Stock-based compensation expenses also increased $0.1 million to attract and retain labor.

Sales and marketing expenses for the nine months ended September 30, 2020 increased by $0.2 million, or 1%, to $26.5 million as compared to the nine months ended September 30, 2019. This nine-month increase primarily related to a $1.8 million increase in people costs driven by the acquisition of Cedar in the first quarter of 2020 and inclusion of a full three quarters of people costs related to workforce acquired in the Ascio acquisition on March 18, 2019. Stock-based compensation expenses also increased $0.3 million in 2020 to attract and retain labor. The overall increase in sales sales and marketing expense was partially offset by decreases in other marketing related expenses of $1.6 million and travel related expenses of $0.4 million. The decrease in the marketing related expenses were focused in Mobile Services due to the sale of the Ting Mobile customer base to DISH in the current period and shutdown of Roam Mobility in the prior quarter.

**TECHNICAL OPERATIONS AND DEVELOPMENT**

Technical operations and development expenses consist primarily of personnel costs and related expenses required to support the development of new or enhanced service offerings and the maintenance and upgrading of existing infrastructure. This includes expenses incurred in the research, design and development of technology that we use to register domain names, network access services, email, retail, domain portfolio and other Internet services, as well as to distribute our digital content services. All technical operations and development costs are expensed as incurred.

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Technical operations and development | $ 3,162 | $ 2,876 | $ 8,980 | $ 8,151 |
| Increase over prior period | $ 286 | | $ 829 | |
| Increase - percentage | 10% | | 10% | |
| Percentage of net revenues | 4% | 3% | 4% | 3% |

Technical operations and development expenses for the three months ended September 30, 2020 increased by $0.3 million, or 10%, to $3.2 million when compared to the three months ended September 30, 2019. The increase in costs relates primarily to increased salaries and benefits driven by an expanding workforce and wage inflation focused on our shared services and engineering teams.

Technical operations and development expenses for the nine months ended September 30, 2020 increased by $0.8 million, or 10%, to $9.0 million when compared to the nine months ended September 30, 2019. The increase in costs relates primarily to increased salaries and benefits driven by an expanding workforce and wage inflation focused on our shared services and engineering teams, as well as increased spending related to contract and outsourcing spends to aid in platform development efforts across our business lines. Additionally, the nine months ended September 30, 2020 reflected a full three quarters of people costs related to the workforce acquired in the Ascio acquisition on March 18, 2019, as compared to a stub period of costs in the nine months ended September 30, 2019.

**GENERAL AND ADMINISTRATIVE**

General and administrative expenses consist primarily of compensation and related costs for managerial and administrative personnel, fees for professional services, public listing expenses, rent, foreign exchange and other general corporate expenses.

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| General and administrative | $ 4,868 | $ 4,574 | $ 15,074 | $ 13,818 |
| Increase over prior period | $ 294 | | $ 1,256 | |
| Increase - percentage | 6% | | 9% | |
| Percentage of net revenues | 7% | 5% | 6% | 6% |

General and administrative expenses for the three months ended September 30, 2020 increased by $0.3 million, or 6% to $4.9 million as compared to the three months ended September 30, 2019. The increase was primarily driven by an increase in people costs of $0.3 million and an increase in professional fees of $0.3 million in connection with the sale of the Ting Mobile customer relationships to DISH. These increases in general and administrative expenses were offset by a decrease in both credit card fees and bad debts associated with the Mobile Services business, in the amounts of $0.2 million and $0.1 million, respectively.

General and administrative expenses for the nine months ended September 30, 2020 increased by $1.3 million, or 9%, to $15.1 million as compared to the nine months ended September 30, 2019. The increase was primarily driven by an increase in people costs of $1.0 million, an increase in foreign exchange expense of $1.0 million, and an increase in professional fees of $0.4 million in connection with the sale of the Ting Mobile customer relationships to DISH. These increases in general and administrative expenses were offset by a decrease in facility and transitional costs related to Ascio and eNom of $0.3 million and $0.4 million, respectively as well as decreases in both credit card fees and bad debts associated with the Mobile Services business, in the amounts of $0.3 million and $0.1 million, respectively.

**DEPRECIATION OF PROPERTY AND EQUIPMENT**

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Depreciation of property and equipment | $ 125 | $ 117 | $ 363 | $ 375 |
| Increase over prior period | $ 8 | | $ (12) | |
| Increase - percentage | 7% | | (3)% | |
| Percentage of net revenues | 0% | 0% | 0% | 0% |

Depreciation costs remained flat for the three months ended September 30, 2020 at $0.1 million when compared to the three months ended September 30, 2019.

Depreciation costs remained flat for the nine months ended September 30, 2020 at $0.4 million when compared to the nine months ended September 30, 2019.

**LOSS ON DISPOSAL OF PROPERTY AND EQUIPMENT**

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Loss on disposition of property and equipment | $ - | $ 73 | $ - | $ 73 |
| Decrease over prior period | $ (73) | | $ (73) | |
| Decrease - percentage | (100) | | (100) | |
| Percentage of net revenues | -% | 0% | -% | 0% |

Loss on the disposal of property and equipment for the three months ended September 30, 2020 decreased by $0.1 million as compared to the three months ended September 30, 2019. The decrease was a result of the three months ended September 30, 2019 including equipment disposal from the former Kirkland office.

Loss on the disposal of property and equipment for the nine months ended September 30, 2020 decreased by $0.1 million as compared to the nine months ended September 30, 2019. The decrease was a result of the nine months ended September 30, 2019 including equipment disposal from the former Kirkland office.

**AMORTIZATION OF INTANGIBLE ASSETS**

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Amortization of intangible assets | $ 2,315 | $ 2,544 | $ 7,766 | $ 6,661 |
| Decrease over prior period | $ (229) | | $ 1,105 | |
| Decrease - percentage | (9)% | | 17% | |
| Percentage of net revenues | 3% | 3% | 3% | 3% |

Amortization of intangible assets for the three months ended September 30, 2020 decreased by $0.2 million to $2.3 million as compared to the three months ended September 30, 2019. The decrease is driven by write-off of Mobile Services related intangible assets in connection with the both the sale of the Ting Mobile customer base in the current period and the shutdown of Roam Mobility in the prior quarter. The write off of the Ting Mobile customer base offsets Other Income earned in period from the margin associated with the legacy customer base. These decreases in amortization expense of $0.4 million, was offset by increased amortization related to the first quarter acquisition of Cedar in the amount of $0.2 million. Network rights, brand and customer relationships acquired in connection with the following acquisitions are amortized on a straight-line basis over a range of two to seven years: eNom in January 2017, Ascio in March 2019, and Cedar in January 2020.

Amortization of intangible assets for the nine months ended September 30, 2020 increased $1.1 million to $7.8 million as compared to the nine months ended September 30, 2019. The increase is driven by a full three quarters of amortization related to the acquisition of Ascio of $0.4 million, amortization of $0.5 million related to the prior quarter acquisition of Cedar and $0.2 million in amortization related to FreedomPop customer acquisition that closed in July 2019. Network rights, brand and customer relationships acquired in connection with the following acquisitions are amortized on a straight-line basis over a range of two to seven years: eNom in January 2017, Ascio in March of 2019, and Cedar in January 2020. As discussed above, the balance of the Roam Mobility brands was fully impaired as at June 30, 2020 as part of shutdown of the Roam brands. This is reflected below in the impairment of definite life intangible assets of $1.4 million. The write off of the Ting Mobile customer base offsets Other Income earned in period from the margin associated with the legacy customer base.

**IMPAIRMENT OF DEFINITE LIFE INTANGIBLE ASSETS**

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Impairment of definite life intangible assets | $ - | $ - | $ 1,431 | $ - |
| Decrease over prior period | $ - | | $ 1,431 | |
| Decrease - percentage | N/A% | | N/A% | |
| Percentage of net revenues | -% | -% | 1% | -% |

There was no impairment of definite life intangible assets for the three months ended September 30, 2020 and the three months ended September 30, 2019.

Impairment of definite life intangible assets for the nine months ended September 30, 2020 increased by $1.4 million as compared to the nine months ended September 30, 2019. The increase is driven by the write-off of customer relationships acquired in connection with our Roam Mobility Brands. As discussed above, Roam Mobility saw a decline in mobile subscribers and reduced usage related to the COVID-19 pandemic. As at June 30, 2020, the Company decided to shut down the Roam Mobility brands and related business as a result of this lack of demand for SIM-enabled roaming services due to the continued decrease of both business and leisure travel caused by the pandemic. As part of that shut down, the associated customer relationships previously acquired were written off in period.

**LOSS (GAIN) ON CURRENCY FORWARD CONTRACTS**

Although our functional currency is the U.S. dollar, a major portion of our fixed expenses are incurred in Canadian dollars. Our goal with regard to foreign currency exposure is, to the extent possible, to achieve operational cost certainty, manage financial exposure to certain foreign exchange fluctuations and to neutralize some of the impact of foreign currency exchange movements. Accordingly, we enter into foreign exchange contracts to mitigate the exchange rate risk on portions of our Canadian dollar exposure.

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Loss (gain) on currency forward contracts | $ (159) | $ 20 | $ (99) | $ (90) |
| Decrease over prior period | $ (179) | | $ (9) | |
| Decrease - percentage | 895% | | 10% | |
| Percentage of net revenues | 0% | 0% | 0% | 0% |

The Company recorded a net gain of $0.2 million on the change in fair value of outstanding contracts as well as realized on matured contracts during the three months ended September 30, 2020, compared to a loss of less than $0.1 million during the three months ended September 30, 2019.

The Company recorded a net gain of $0.1 million on the change in fair value of outstanding contracts as well as realized on matured contracts during the nine months ended September 30, 2020, compared to a gain of less than $0.1 million during the nine months ended September 30, 2019.

At September 30, 2020, our balance sheet reflects a derivative instrument asset of $2.4 million and a liability of $0.2 million as a result of our existing foreign exchange contracts. Until their respective maturity dates, these contracts will fluctuate in value in line with movements in the Canadian dollar relative to the U.S. dollar.

**OTHER INCOME (EXPENSES)**

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Other income (expense), net | $ 244 | $ (1,263) | $ (1,924) | $ (3,549) |
| Increase over prior period | $ 1,507 | | $ 1,625 | |
| Increase - percentage | (119)% | | (46)% | |
| Percentage of net revenues | 0% | 1% | 1% | 1% |

Other Income during the three months ended September 30, 2020 increased by $1.5 million when compared to the three months ended September 30, 2019. This was primarily due to the $1.1 million increase due to the gain on sale of Ting Customer Assets to DISH in the current period. This gain represented the net effect of income earned from the legacy customer base of $4.6 million offset by the write off of Mobile assets totaling $3.5 million. In addition to this, another contributing factor in the increase was lower interest incurred on our credit facility with the majority of the borrowings on the credit facility to support the build-out of the Ting Fiber network. Other expense consists primarily of the interest we incur in connection with our Amended 2019 Credit Facility. The interest incurred primarily relates to our loan balances obtained to fund the acquisition of eNom, Ascio and Cedar and funding for expenditures associated with the Company's Fiber to the Home program.

Other Income during the nine months ended September 30, 2020 increased by $1.6 million when compared to the nine months ended September 30, 2019. This was primarily due to the $1.1 million increase due to the gain on sale of Ting Customer Assets to DISH in the current period. This gain represented the net effect of income earned from the legacy customer base of $4.6 million offset by the write off of Mobile assets totaling $3.5 million. In addition to this, another contributing factor in the increase was lower interest incurred on our credit facility with the majority of the borrowings on the credit facility to support the build-out of the Ting Fiber network. Other expense consists primarily of the interest we incur in connection with our Amended 2019 Credit Facility. The interest incurred primarily relates to our loan balances obtained to fund the acquisition of eNom, Ascio and Cedar and funding for expenditures associated with the Company's Fiber to the Home program.

**INCOME TAXES**

The following table presents our provision for income taxes for the periods presented:

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Provision for income taxes | $ 840 | $ 3,133 | $ 2,390 | $ 6,209 |
| Decrease in provision over prior period | $ (2,293) | | $ (3,819) | |
| Decrease - percentage | (73)% | | (62)% | |
| Effective tax rate | 54% | 43% | 39% | 39% |

We operate in various tax jurisdictions, and accordingly, our income is subject to varying rates of tax. Losses incurred in one jurisdiction cannot be used to offset income taxes payable in another jurisdiction. Our ability to use income tax loss carry forwards and future income tax deductions is dependent upon our operations in the tax jurisdictions in which such losses or deductions arise. Income taxes are computed using the asset and liability method, under which deferred tax assets and liabilities are determined based on the difference between the financial statement carrying values and tax base of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

For the three months ended September 30, 2020, we recorded a income tax expense of $0.8 million on income before income taxes of $1.6 million, using an estimated effective tax rate for Fiscal 2020 adjusted for certain minimum state taxes as well as the inclusion of a nil tax expense related to ASU 2016-09, which requires all excess tax benefits and tax deficiencies related to employee share-based payments to be recognized through income tax expense. Our effective tax rate for the three months ended September 30, 2020 is also adversely impacted by discrete adjustments resulting from finalization of prior period tax filings and a change in geographical mix of income. Comparatively, for the three months ended September 30, 2019, we recorded an income tax expense of $3.1 million on income before taxes of $7.3 million, using an estimated effective tax rate for the 2019 fiscal year and reflecting the $0.1 million tax recovery impact related to ASU 2016-09.

For the nine months ended September 30, 2020, we recorded an income tax expense of $2.4 million on income before income taxes of $6.1 million, using an estimated effective tax rate for Fiscal 2020 adjusted for certain minimum state taxes as well as the inclusion of a $0.2 million tax recovery related to ASU 2016-09, which requires all excess tax benefits and tax deficiencies related to employee share-based payments to be recognized through income tax expense. Our effective tax rate for the nine months ended September 30, 2020 is also adversely impacted by discrete adjustments resulting from finalization of prior period tax filings and a change in the geographical mix of income. Comparatively, for the nine months ended September 30, 2019, we recorded an income tax expense of $6.2 million on income before taxes of $15.8 million, using an estimated effective tax rate for the 2019 fiscal year and reflecting the $0.8 million tax recovery impact related to ASU 2016-09.

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the years in which those temporary differences become deductible. Management projected future taxable income, uncertainties related to the industry in which the Company operates, and tax planning strategies in making this assessment.

We recognize accrued interest and penalties related to income taxes in income tax expense. We did not have significant interest and penalties accrued at September 30, 2020 and December 31, 2019, respectively.

**ADJUSTED EBITDA**

We believe that the provision of this supplemental non-GAAP measure allows investors to evaluate the operational and financial performance of our core business using similar evaluation measures to those used by management. We use adjusted EBITDA to measure our performance and prepare our budgets. Since adjusted EBITDA is a non-GAAP financial performance measure, our calculation of adjusted EBITDA may not be comparable to other similarly titled measures of other companies; and should not be considered in isolation, as a substitute for, or superior to measures of financial performance prepared in accordance with GAAP. Because adjusted EBITDA is calculated before recurring cash charges, including interest expense and taxes, and is not adjusted for capital expenditures or other recurring cash requirements of the business, it should not be considered as a liquidity measure. See the Consolidated Statements of Cash Flows included in the attached financial statements. Non-GAAP financial measures do not reflect a comprehensive system of accounting and may differ from non-GAAP financial measures with the same or similar captions that are used by other companies and/or analysts and may differ from period to period. We endeavor to compensate for these limitations by providing the relevant disclosure of the items excluded in the calculation of adjusted EBITDA to net income based on GAAP, which should be considered when evaluating the Company's results. Tucows strongly encourages investors to review its financial information in its entirety and not to rely on a single financial measure.

Our adjusted EBITDA definition excludes depreciation, amortization of intangible assets, income tax provision, interest expense (net), accretion of contingent consideration, stock-based compensation, asset impairment, loss on the disposal of Ting Mobile customer assets, gains and losses from unrealized foreign currency transactions and infrequently occurring items, including acquisition and transition costs. Gains and losses from unrealized foreign currency transactions removes the unrealized effect of the change in the mark-to-market values on outstanding unhedged foreign currency contracts, as well as the unrealized effect from the translation of monetary accounts denominated in non-U.S. dollars to U.S. dollars.

The following table reconciles net income to adjusted EBITDA:

| **Reconciliation of Net income to Adjusted EBITDA (In Thousands of US Dollars) (unaudited)** | **Three Months Ended September 30, 2020 (unaudited)** | **2019 (unaudited)** | **Nine Months Ended September 30, 2020 (unaudited)** | **2019 (unaudited)** |
|---|---|---|---|---|
| **Net income for the period** | $ 716 | $ 4,205 | $ 3,707 | $ 9,620 |
| Depreciation of property and equipment | 3,110 | 2,348 | 9,255 | 6,445 |
| Impairment of property and equipment | 113 | - | 1,638 | - |
| Loss on disposition of property and equipment | - | 73 | - | 73 |
| Amortization of intangible assets | 2,645 | 2,858 | 8,776 | 7,463 |
| Impairment of definite life intangible assets | - | - | 1,431 | - |
| Write-down on disposal of Ting Mobile customer assets | 3,513 | - | 3,513 | - |
| Interest expense, net | 760 | 1,263 | 2,756 | 3,549 |
| Accretion of contingent consideration | 86 | - | 258 | - |
| Provision for income taxes | 840 | 3,133 | 2,390 | 6,209 |
| Stock-based compensation | 1,016 | 830 | 2,664 | 2,040 |
| Unrealized loss (gain) on change in fair value of forward contracts | (175) | (16) | (263) | (204) |
| Unrealized loss (gain) on foreign exchange revaluation of foreign denominated monetary assets and liabilities | 81 | 88 | 479 | (402) |
| Acquisition and other costs[1] | 565 | 50 | 1,520 | 956 |
| Adjusted EBITDA | $ 13,270 | $ 14,832 | $ 38,124 | $ 35,749 |

[1]Acquisition and other costs represents transaction-related expenses, transitional expenses, such as duplicative post-acquisition expenses, primarily related to our acquisition of Ascio in March 2019, Cedar in January 2020, and the disposition of certain Ting Mobile assets in August 2020. Expenses include severance or transitional costs associated with department, operational or overall company restructuring efforts, including geographic alignments.

Adjusted EBITDA decreased by $1.5 million, or 10% to $13.3 million for the three months ended September 30, 2020 when compared to the three months ended September 30, 2019. The decrease in adjusted EBITDA from period-to-period was primarily driven by a decreased contribution from outsized Portfolio sales in the third quarter of 2019 as the Company ramped up disposition of the remaining portfolio. The decrease is also impacted by lower contribution from the erosion of wholesale and retail registrations from our eNom brand. The overall decrease in EBITDA was partially offset by an increased contribution from wholesale domain registrations from our OpenSRS, Ascio and EPAG brands and from Ting Fiber.

Adjusted EBITDA increased by $2.4 million, or 7% to $38.1 million for the nine months ended September 30, 2020 when compared to the nine months ended September 30, 2019. The increase in adjusted EBITDA from period-to-period was primarily driven by an increased contribution from wholesale domain registrations from our OpenSRS and EPAG brands who have seen an increase in domains under management over the course of the COVID-19 pandemic as more businesses move online. The increase is also impacted by increased contribution from Ascio due to the full three quarters of contribution in 2020 relative to the stub period in 2019 due to acquisition timing. Additionally, the acquisition of Cedar and continued expansion of the Ting Fiber network has seen increased contribution from Fiber year-over-year. The overall increase in EBIDTA was partially offset by lower contribution from the erosion of wholesale and retail registrations from our eNom brand as well as Mobile Services due to the sale of Ting Mobile customer relationships to DISH as well as the shutdown of Roam Mobility.

**OTHER COMPREHENSIVE INCOME (LOSS)**

To mitigate the impact of the change in fair value of our foreign exchange contracts on our financial results, in October 2012 we begun applying hedge accounting for the majority of the contracts we need to meet our Canadian dollar requirements on a prospective basis.

The following table presents other comprehensive income for the periods presented:

| *(Dollar amounts in thousands of U.S. dollars)* | For the Three Months Ended September 30, | | For the Nine Months Ended September 30, | |
|---|---|---|---|---|
| | **2020** | **2019** | **2020** | **2019** |
| Other comprehensive income (loss) | $ 775 | $ (149) | $ 898 | $ 781 |
| Increase over prior period | $ 924 | | $ 117 | |
| Increase - percentage | (620)% | | 15% | |
| Percentage of net revenues | 1% | (0)% | 0% | 0% |

The impact of the fair value adjustments on outstanding hedged contracts for the three months ended September 30, 2020 was a gain in OCI of $0.7 million as compared to a loss of $0.2 million for the three months ended September 30, 2019.

The net amount reclassified to earnings during the three months ended September 30, 2020 was a loss of less than $0.1million compared to a gain of less than $0.1 million during the three months ended September 30, 2019.

The impact of the fair value adjustments on outstanding hedged contracts for the nine months ended September 30, 2020 was a gain in OCI of $0.9 million as compared to a gain of $0.6 million for the nine months ended September 30, 2019.

The net amount reclassified to earnings during the nine months ended September 30, 2020 was a loss of $0.3 million compared to a gain of $0.2 million during the nine months ended September 30, 2019.

**LIQUIDITY AND CAPITAL RESOURCES**

As of September 30, 2020, our cash and cash equivalents balance decreased $10.2 million when compared to December 31, 2019. Our principal uses of cash were $32.7 million for the continued investment in property and equipment, $8.8 million for the Acquisition of Cedar, $3.3 million in stock repurchases, and $0.5 million of other costs, including tax payment associated with stock option exercises and loan payable costs. These uses of cash were offset by cash provided by operating activities of $34.4 million and $0.7 million of proceeds received on exercise of stock options.

*Amended 2019 Credit Facility*

On June 14, 2019, the Company and its wholly-owned subsidiaries, Tucows.com Co., Ting Fiber, Inc., Ting Inc., Tucows (Delaware) Inc. and Tucows (Emerald), LLC, entered into an Amended and Restated Senior Secured Credit Agreement with RBC, as administrative agent, and lenders party thereto (collectively with RBC, the "Lenders") under which the Company has access to an aggregate of up to $240 million in funds, inclusive of a $60 million accordion facility. The Amended 2019 Credit Facility replaced a secured Credit Agreement dated January 20, 2017 with Bank of Montreal, RBC and Bank of Nova Scotia (as amended, the "2017 Amended Credit Facility").

On November 27, 2019, the Company entered into Amending Agreement No. 1 to the Amended and Restated Senior Secured Credit Agreement (collectively with the Amended and Restated Senior Secured Credit Agreement, the "Amended 2019 Credit Facility") to amend certain defined terms in connection with the Cedar acquisition.

In connection with the Amended 2019 Credit Facility, the Company incurred an additional $0.3 million of fees paid to lenders and $0.2 million of legal fees related to the debt issuance. Of these fees, $0.4 million are debt issuance costs, which have been reflected as a reduction to the carrying amount of the loan payable and will be amortized over the term of the credit facility agreement and $0.1 million have been recorded in general and administrative expenses.

The obligations of the Company under the Amended 2019 Credit Agreement are secured by a first priority lien on substantially all of the personal property and assets of the Company and has a four-year term.

*Other Credit Facilities*

Prior to the Company entering into the Amended 2019 Credit Facility and the 2017 Amended Credit Facility, the Company had credit agreements (collectively the "Prior Credit Facilities") with BMO, which provided the Company with continued access to a treasury risk management facility and a credit card facility. All remaining credit facilities under the 2017 Amended Credit Facility and the Prior Credit Facilities have been terminated.

The treasury risk management facility under the Prior Credit Facilities provides for a $3.5 million settlement risk line to assist the Company with hedging Canadian dollar exposure through foreign exchange forward contracts and/or currency options. Under the terms of the Prior Credit Facilities, the Company may enter into such agreements at market rates with terms not to exceed 18 months. As of September 30, 2020, the Company held contracts in the amount of $41.4 million to trade U.S. dollars in exchange for Canadian dollars.

***Cash Flow from Operating Activities***

Net cash inflows from operating activities during the nine months ended September 30, 2020 was $34.4 million, an increase of 26% when compared to the nine months ended September 30, 2019.

Net income, after adjusting for non-cash charges, during the nine months ended September 30, 2020 was $30.3 million, an increase of 13% when compared to the prior year. Net income included non-cash charges and recoveries of $26.6 million such as depreciation, amortization, stock-based compensation, write-down on disposal of Ting Mobile customer assets, impairment of definite life intangible assets, loss on impairment of property and equipment, deferred income taxes, excess tax benefits on stock-based compensation, unrealized gains on currency forward contracts, and disposal of domain names. In addition, changes in our working capital provided $4.1 million. Positive contributions of $10.5 million from movements in deferred revenue, accounts receivable, accounts payable, inventory, accreditation fees payable, and customer deposits were offset by $6.4 million utilized in changes from prepaid domain name fees, prepaid expenses and deposits, income taxes recoverable, and accrued liabilities.

***Cash Flow from Financing Activities***

Net cash outflows from financing activities during the nine months ended September 30, 2020 totaled $3.1 million as compared to cash inflows of $34.9 million during the nine months ended September 30, 2019. Total cash outflows of $3.8 million were driven by $3.3 million related to the stock repurchases, in addition to a $0.5 million outflow for the payment of tax obligations resulting from the net exercise of stock options and loan payable costs. These cash outflows were offset by cash inflows related to the proceeds received on exercise of stock options of $0.7 million.

***Cash Flow from Investing Activities***

Investing activities during the nine months ended September 30, 2020 used net cash of $41.6 million as compared to using $62.7 million during the nine months ended September 30, 2019. Cash outflows of $8.8 million related to the acquisition of Cedar, in addition to $32.7 million invested in property and equipment, primarily to support the continued expansion of our fiber footprint. The Company continues to invest in our existing Ting Towns of Centennial, CO, Charlottesville, VA, Fuquay-Varina, NC, Holly Springs, NC, and Sandpoint, ID as well ramping construction in Roaring Fork, CO, Rolesville, NC, and Wake Forest, NC, as we seek to extend both our current network and expand to new towns. We expect our capital expenditures on building and expanding our fiber network to continue to increase during Fiscal 2020.

Based on our operations, we believe that our cash flow from operations will be adequate to meet our anticipated requirements for working capital, capital expenditures and our loan repayments for at least the next 12 months.

We may need additional funds or seek other financing arrangements to facilitate more rapid expansion, develop new or enhance existing products or services, respond to competitive pressures or acquire or invest in complementary businesses, technologies, services or products. We may also evaluate potential acquisitions of other businesses, products and technologies. We currently have no commitments or agreements regarding the acquisition of other businesses. If additional financing is required, we may need additional equity or debt financing and any additional financing may be dilutive to existing investors. We may not be able to raise funds on acceptable terms, or at all.

**Off Balance Sheet Arrangements**

As of September 30, 2020 we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K.

**Contractual Obligations**

In our Annual Report on Form 10-K for the year ended December 31, 2019, we disclosed our contractual obligations. As of September 30, 2020, other than the items mentioned above, there have been no other material changes to those contractual obligations outside the ordinary course of business.

**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We develop products in Canada and sell these services in North America and Europe. Our sales are primarily made in U.S. dollars, while a major portion of expenses are incurred in Canadian dollars. Our financial results could be affected by factors such as changes in foreign currency exchange rates or weak economic conditions in foreign markets. Our interest income is sensitive to changes in the general level of Canadian and U.S. interest rates, particularly since the majority of our investments are in short-term instruments. Based on the nature of our short-term investments, we have concluded that there is no material interest rate risk exposure as of September 30, 2020. We are also subject to market risk exposure related to changes in interest rates under our Amended 2019 Credit Facility.

In an effort to mitigate a portion of our market risk exposure the Company has entered into a pay-fixed, receive-variable interest rate swap with a Canadian chartered bank to limit the potential interest rate fluctuations incurred on its future cash flows related to variable interest payments on the Amended 2019 Credit facility. The notional value of the swap at September 30, 2020 is $70 million and nil at December 31, 2019.

We do not expect that any changes in interest rates will be material; however, fluctuations in interest rates are beyond our control. We will continue to monitor and assess the risks associated with interest expense exposure and may take additional actions in the future to mitigate these risks.

Although our functional currency is the U.S. dollar, a substantial portion of our fixed expenses are incurred in Canadian dollars. Our policy with respect to foreign currency exposure is to manage financial exposure to certain foreign exchange fluctuations with the objective of neutralizing some of the impact of foreign currency exchange movements. Exchange rates are, however, subject to significant and rapid fluctuations, and therefore we cannot predict the prospective impact of exchange rate fluctuations on our business, results of operations and financial condition. Accordingly, we have entered into foreign exchange forward contracts to mitigate the exchange rate risk on portions of our Canadian dollar exposure.

As of September 30, 2020, we had the following outstanding foreign exchange forward contracts to trade U.S. dollars in exchange for Canada dollars:

| Maturity date (Dollar amounts in thousands of U.S. dollars) | Notional amount of U.S. dollars | Weighted average exchange rate of U.S. dollars | Fair value Asset / (Liability) |
|---|---|---|---|
| October - December 2020 | 9,658 | 1.3227 | (64) |
| January - March 2021 | 11,124 | 1.4283 | 819 |
| April - June 2021 | 9,878 | 1.4283 | 727 |
| July - September 2021 | 10,782 | 1.4362 | 856 |
| | $ 41,442 | 1.4058 | $ 2,338 |

As of September 30, 2020, the Company had $41.4 million of outstanding foreign exchange forward contracts which will convert to $58.3 million Canadian dollars. Of these contracts, $35.0 million met the requirements for hedge accounting. As of December 31, 2019, the Company held contracts in the amount of $30.5 million to trade U.S. dollars in exchange for $40.5 million Canadian dollars. Of these contracts, $26.1 million met the requirements for hedge accounting.

We have performed a sensitivity analysis model for foreign exchange exposure over the three months ended September 30, 2020. The analysis used a modeling technique that compares the U.S. dollar equivalent of all expenses incurred in Canadian dollars, at the actual exchange rate, to a hypothetical 10% adverse movement in the foreign currency exchange rates against the U.S. dollar, with all other variables held constant. Foreign currency exchange rates used were based on the market rates in effect during the nine months ended September 30, 2020. The sensitivity analysis indicated that a hypothetical 10% adverse movement in foreign currency exchange rates would result in a decrease in net income for the nine months ended September 30, 2020 of approximately $3.3 million, before the effects of hedging. Fluctuations of exchange rates are beyond our control. We will continue to monitor and assess the risk associated with these exposures and may take additional actions in the future to hedge or mitigate these risks.

**Credit Risk**

Financial instruments that potentially subject us to concentrations of credit risk consist principally of cash equivalents, marketable securities, foreign exchange contracts and accounts receivable. Our cash, cash equivalents and short-term investments are in high-quality securities placed with major banks and financial institutions whom we have evaluated as highly creditworthy and commercial paper. Similarly, we enter into our foreign exchange contracts with major banks and financial institutions. With respect to accounts receivable, we perform ongoing evaluations of our customers, generally granting uncollateralized credit terms to our customers, and maintaining an allowance for doubtful accounts based on historical experience and our expectation of future losses.

**Interest rate risk**

Our exposure to interest rate fluctuations relate primarily to our Amended 2019 Credit Facility.

As of September 30, 2020, we had an outstanding balance of $114.4 million on the Amended 2019 Credit Facility. The Amended 2019 Credit Facility bears a base interest rate based on borrowing elections by the Company and the Company's total Funded Debt to EBITDA plus LIBOR. In addition, as discussed above, the Company entered into a pay-fixed, receive-variable interest rate swap to limit the potential interest rate fluctuations incurred on its future cash flows related to variable interest payments on the Amended 2019 Credit facility. As of September 30, 2020, the notional amount of the Company's interest rate swap designated as a cash flow hedge was $70 million. At December 31, 2019 notional value of the swap designated as a cash flow hedge was nil. As of September 30, 2020, an adverse change of one percent on the interest rate would have the effect of increasing our annual interest payment on Amended 2019 Credit Facility by approximately $0.4 million, assuming that the loan balance as of September 30, 2020 is outstanding for the entire period.

**Item 4. Controls and Procedures**

(a) Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated, as of the end of the period covered by this report, the effectiveness of our disclosure controls and procedures as defined in Exchange Act Rule 13a-15(e). Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their control objectives. Based on the evaluation of our disclosure controls and procedures as of the end of the period covered by this quarterly report, our Chief Executive Officer and Chief Financial Officer concluded that, as of September 30, 2020 our disclosure controls and procedures were effective at the reasonable assurance level. Management's assessment of disclosure controls and procedures excluded consideration of Cedar's internal control over financial reporting. Cedar was acquired during the first quarter of 2020, and the exclusion is consistent with guidance provided by the SEC staff that an assessment of a recently acquired business may be omitted from management's report on internal control over financial reporting for up to one year from the date of acquisition, subject to specified conditions. Cedar's total assets were approximately $15.5 million as September 30, 2020; its revenues during the three and nine months ended September 30, 2020 were approximately $1.1 million and $3.5 million, respectively.

(b) Changes in Internal Control over Financial Reporting

There were no changes made in our internal controls over financial reporting during the three months ended September 30, 2020 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. As a result of our acquisition of Cedar, we are in the process of evaluating Cedar's internal controls to determine the extent to which modifications to Cedar's internal controls would be appropriate.

## PART II.
## OTHER INFORMATION

### Item 1. Legal Proceedings

We are involved in various investigations, claims and lawsuits arising in the normal conduct of our business, none of which, individually or in the aggregate, in our opinion, will materially harm our business. We cannot assure that we will prevail in any litigation. Regardless of the outcome, any litigation may require us to incur significant litigation expense and may result in significant diversion of our attention.

### Item 1A. Risk Factors

The following risk factors are provided to update the risk factors previously disclosed under the heading "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2019 and our Quarterly Report on Form 10-Q for the quarter ended June 30, 2020. The risks described in this Quarterly Report and in our Annual Report on Form 10-K and other Quarterly Reports are not the only risks facing the Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may adversely affect our business, financial condition or operating results.

**Health epidemics, including the recent COVID-19 pandemic, have had, and could in the future have, an adverse impact on our business, operations and financial results, and the markets and communities in which we and our employees, Mobile Network Operators ("MNOs"), vendors and customers operate.**

Our business, operations and financial results could be adversely affected by health epidemics, including the recent COVID-19 pandemic, impacting the markets and communities in which we and our employees, MNOs, vendors and customers operate. In December 2019, a disease referred to as COVID-19 was reported and has since spread to many countries worldwide, including the United States and Canada.

The ongoing global COVID-19 pandemic has adversely impacted, and may continue to adversely impact, many aspects of our business. With respect to our Network Access business segment, Roam Mobility, our niche prepaid Mobile Services brand that relies on global travel as a key factor in its success, has accounted for the majority of the negative financial impact caused by COVID-19. Ting Mobile, our primary post-paid Mobile Services brand, has experienced a drop in customer data usage and an increased churn rate of low-margin business accounts. We do not know when Ting Mobile customer data usage and business account churn rates will return to pre-pandemic levels, if ever, and continued declines and increases, respectively, could harm our Network Access business. Also within our Network Access business segment, although we have implemented certain smart, reduced-risk installs for our Ting Fiber customers, we do not expect new customer installations to return to pre-pandemic levels in the near term. A continued decline in new customer growth and installations could harm our Network Access business.

In response to the COVID-19 pandemic, many state, local, and foreign governments have put in place, and others in the future may put in place, quarantines, executive orders, shelter-in-place orders, and similar government orders and restrictions in order to control the spread of the disease. Such orders or restrictions, or the perception that such orders or restrictions could occur, have resulted in business closures, work stoppages, slowdowns and delays, work-from-home policies, travel restrictions, and cancellation or postponement of events, among other effects, that could negatively impact productivity and disrupt our operations and those of our MNOs, vendors and customers. We continue to implement a work-from-home policy for substantially all of our employees, and we may take further actions that alter our operations as may be required by federal, state, or local authorities, or which we determine are in our best interests. While most of our operations can be performed remotely, there is no guarantee that we will be as effective while working remotely because our team is dispersed, many employees may have additional personal needs to attend to (such as looking after children as a result of school closures or family who become sick), and employees may become sick themselves and be unable to work. Decreased effectiveness of our team could adversely affect our results due to our inability to meet in person with vendors and service providers, longer time periods to provide services related to domain registrations, longer time to respond to Network Access customer service issues, extended timelines for Network Access customer installations and repairs, or other decreases in productivity that could harm our business.

The global impact of COVID-19 continues to rapidly evolve, and we will continue to monitor the situation closely. The ultimate impact of the COVID-19 pandemic or a similar health epidemic is highly uncertain and subject to change. We do not yet know the full extent of potential delays or impacts on our business, operations, financial results or the global economy as a whole. While the spread of COVID-19 may eventually be contained or mitigated, there is no guarantee that a future outbreak of this or any other widespread epidemics will not occur, or that the global economy will recover, either of which could seriously harm our business.

**Risk associated with contingent consideration in the Asset Purchase Agreement with Dish Wireless LLC**

On August 1, 2020, the Company entered into an Asset Purchase Agreement (the "Purchase Agreement") with Dish Wireless LLC ("DISH"), whereby it sold certain assets of Ting Inc. its wholly owned subsidiary, primarily its customer relationships and inventory. In addition, the Company will be entitled to a 10-year payment stream that is a function of the revenue generated by the transferred subscribers over the 10-year period. Subscribers are able to accept offers, plans or pricing from DISH. This consideration structure may not prove to be successful or profitable in the long-term to us if the existing subscriber base churns at an above average rate upon acquisition by DISH. Additionally, given DISH controls the revenues and costs incurred associated with the acquired subscribers, there could arise a situation where profitability for the subscriber base is diminished either by lower price points or cost inflation. If any of these events occur, our operational performance and financial results may be adversely affected.

**Risk associated with sharing the Ting brand with Dish Wireless LLC**

Included in the Purchase Agreement, the Company grants the purchaser the right to use the name "Ting" and its associated domain name. DISH will use the Ting brand to provision Ting Mobile services, provided by DISH. Contemporaneously, the Company will continue to use the Ting brand with Ting Fiber, the Company's existing Fiber Internet service. This could cause a misassociation in the minds of consumers and the market who could associate either Company as the single service provider of both services. Additionally, any actions taken by DISH as part of the transactions contemplated by the Purchase Agreement may impact the Ting brand and by extension - the Ting brand's reputation. These actions could range from poor service quality, bad customer experience, privacy concerns, data breaches, and other events that could negatively impact the Ting brand permanently. The Ting brand could then carry negative connotation with consumers and impact our ability to continue to grow our Fiber Internet business under the Ting brand. If any of these events occur, our operational performance and financial results, in particular those of our Fiber Internet business may be adversely affected.

**Risk associated with the concentration of MSE business with one customer**

The transferred assets under the Purchase Agreement do not include the technology platforms and related intellectual property and infrastructure necessary to enable or support the mobile customers. The Company will retain assets used to provide MSE services to DISH. Contemporaneously with the execution of the Purchase Agreement, the Company executed a Mobile Services Enabler Master Services Agreement (the "MSA") with DISH to provide certain back-office enabling services in support of DISH's mobile virtual network operations ("MVNO") operations in the United States. The MSA has a four-year term effective August 1, 2020, with an automatic one-year extension upon achievement of certain milestones, and monthly per subscriber tiered rates. Under the terms of the MSA, the Company is permitted to sell MSE services to other third parties. The sale of the Company's mobile customer base and pivot from MVNO to MSE will be a strategic shift for our Network Access segment. At the start, DISH will be our sole customer and will represent 100% of our MSE revenues until such time that we are able to scale our services to other customers interested in our enablement services. With all our MSE revenues concentrated with one customer, we are exposed to significant risk if we are unable to maintain this customer relationship or establish new relationships in the future. Additionally, our revenues as an MSE are directly tied to the subscriber volumes of DISH's MVNO or MNO networks, so our profitability is contingent on the ability of DISH to continue to add subscribers onto our platform. If any of these events occur, our operational performance and financial results may be adversely affected.

**Risk that we are unable to meet our minimum commitments with MNO partners for remaining contracts not assigned to DISH**

As part of the transactions contemplated by the Purchase agreement, we will reassign MNO partner contracts currently used to facilitate the Ting Mobile MVNO business (other than a contract associated with one network operator). The Company will retain customer accounts associated with the excluded MNO provider, and the minimum revenue commitments under the excluded MNO contract. The Company will be able to continue adding customers under the excluded MNO contract working with DISH in order to meet the commitment. However, with no direct relationship with the subscriber, the Company may be unable to meet the minimum commitments with this MNO partner and could incur significant and recurring penalties until such a time that the contract is complete. These penalties would negatively impact our operational performance and financial results if enforced by the MNO.

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

(Dollar amounts in thousands of U.S. dollars, except per share amounts)

| Period | Total Number of Shares Repurchased | Average Price Paid per share | Total Number of Shares repurchased as part of a publicly announced program(1) | Approximate Dollar value of shares that may yet be purchased under the program |
|---|---|---|---|---|
| July 1-31, 2020 | - | $ - | - | $ 36,719 |
| August 1-31, 2020 | - | $ - | - | $ 36,719 |
| September 1-31, 2020 | - | $ - | - | $ 36,719 |

(1) *On February 12, 2020, the Company announced that its Board has approved a stock buyback program to repurchase up to $40 million of its common stock in the open market. Purchases are to be made exclusively through the facilities of the NASDAQ Capital Market. The $40 million buyback program commenced on February 12, 2020 and is expected to terminate on February 12, 2021. During the three months ended September 30, 2020, the Company did not repurchase any shares under the terms of this program for a total of $0.2 million. During the nine months ended September 30, 2020, the Company repurchased and cancelled 70,238 shares under the terms of this program for a total of $3.3 million.*

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

None.

**Item 6. Exhibits**

| No. | Description |
|---|---|
| 3.1.1 | Fourth Amended and Restated Articles of Incorporation of Tucows Inc. (Incorporated by reference to Exhibit 3.1 filed with Tucows' Current Report on Form 8-K, as filed with the SEC on November 29, 2007). |
| 3.1.2 | Articles of Amendment to Fourth Amended and Restated Articles of Incorporation of Tucows Inc. (Incorporated by reference to Exhibit 3.1 filed with Tucows' Current Report on Form 8-K, as filed with the SEC on January 3, 2014). |
| 3.2 | Second Amended and Restated Bylaws of Tucows Inc. (Incorporated by reference to Exhibit 3.2 filed with Tucows' Annual Report on Form 10-K for the year ended December 31, 2006, as filed with the SEC on March 29, 2007). |
| 3.3 | Amendment No. 1 to Second Amended and Restated Bylaws of Tucows Inc. (Incorporated by Reference to Exhibit 3.3 filed with Tucows' Quarterly Report on Form 10-Q for the quarter ended June 30, 2012). |
| 10.1#* | Asset Purchase Agreement, dated as of August 1, 2020, by and between Tucows Inc., and DISH WIRELESS L.L.C. |
| 10.2#* | Mobile Virtual Network Enabler ("MVNE") Master Services Agreement, dated August 1, 2020, by and between Ting Inc., and DISH Wireless L.L.C |
| 31.1# | Chief Executive Officer's Rule 13a-14(a)/15d-14(a) Certification |
| 31.2# | Chief Financial Officer's Rule 13a-14(a)/15d-14(a) Certification |
| 32.1† | Chief Executive Officer's Section 1350 Certification † |
| 32.2† | Chief Financial Officer's Section 1350 Certification † |
| 101.INS# | Inline XBRL Instance Document (the Instance Document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document) |
| 101.SCH# | Inline XBRL Taxonomy Extension Schema Document |
| 101.CAL# | Inline XBRL Taxonomy Extension Calculation Linkbase Document |
| 101.DEF# | Inline XBRL Taxonomy Extension Definition Linkbase Document |
| 101.LAB# | Inline XBRL Taxonomy Extension Label Linkbase Document |
| 101.PRE# | Inline XBRL Taxonomy Extension Presentation Linkbase Document |
| 104# | Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101) |

* Schedules and Exhibits to the agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company undertakes to furnish supplementary copies of any of the omitted schedules upon request by the SEC.

\# Filed herewith.

† Furnished herewith.

**SIGNATURES**

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

Date: November 5, 2020

TUCOWS INC.

By: /s/ ELLIOT NOSS
Elliot Noss
President and Chief Executive Officer

By: /s/ DAVINDER SINGH
Davinder Singh
Chief Financial Officer
(Principal Financial and Accounting Officer)

# ASSET PURCHASE AGREEMENT

**between**

**TUCOWS INC.,**

**and**

**DISH WIRELESS L.L.C.**

**Dated as of August 1, 2020**

**[REDACTED] Indicates that certain information in this exhibit has been excluded because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.**

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This ASSET PURCHASE AGREEMENT (including the exhibits and schedules hereto, each as amended or restated from time to time, this "**Agreement**"), dated as of August 1, 2020 (the "**Effective Date**"), is made by and between DISH Wireless L.L.C., a Colorado limited liability company ("**Buyer**"), and Tucows Inc., a Pennsylvania corporation ("**Seller**"). All of the signatories to this Agreement are collectively referred to as the "**Parties**" and individually as a "**Party**."

W I T N E S S E T H:

WHEREAS, Seller's wholly owned Subsidiary, Tucows (Delaware) Inc., a Delaware corporation, is the sole shareholder of Ting, Inc., a Delaware corporation ("**Ting**");

WHEREAS, Seller desires to sell (or cause to be sold), and Buyer desires to purchase, certain assets and Buyer is willing to assume certain liabilities, in each case in connection with the Business upon the terms and subject to the conditions set forth herein; and

WHEREAS, concurrently with the entry into this Agreement, the Parties or their respective Affiliates have entered into the Ancillary Agreements, Seller and each of the Seller Entities have entered into and delivered the Seller Release and Seller has delivered a duly executed IRS Form W-9 with respect to Seller and each Seller Entity.

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements contained herein, the Parties agree as follows:

## ARTICLE I

## DEFINITIONS AND TERMS

Section 1.1 Certain Definitions. As used in this Agreement, the following terms have the meanings set forth in this Section 1.1:

"**Accounting Principles**" means the same accounting methods, policies, principles, practices, bases and procedures, including classification and estimation methodologies adopted, and judgments and assumptions used, consistently applied with consistent classifications, judgments and estimation methodology, in each case as were consistently applied in the preparation of the Balance Sheet and consistent with GAAP; provided, that in the event of a conflict between GAAP, on the one hand, and the accounting methods, policies, principles, practices, bases, procedures, classifications, estimation methodologies and judgments used in the preparation of the Balance Sheet, on the other hand, GAAP shall apply.

"**Accounts Payable**" means all accrued liabilities and unpaid trade accounts payable, owed by Seller or any Seller Entity to third parties, in each case in connection with the Business.

"**Accounts Receivable**" means all trade accounts receivable and other rights to payment from customers of the Business and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers of the Business in the categories set forth on the Sample Working Capital Schedule.

"**Action**" means any action, suit, claim, complaint, litigation, investigation, audit, proceeding, arbitration or other similar dispute.

"**Additional Customer Accounts**" means any additional lines added following the Effective Date to any customer and subscriber accounts of the Business acquired by Buyer pursuant to this Agreement. [REDACTED]"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (for purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise).

"**Agreement**" has the meaning set forth in the Preamble.

"**Ancillary Agreements**" means, collectively: (a) the Master Services Agreement; (b) the Transition Services Agreement; (c) the Seller Release; and (d) such other instruments of assumption and other instruments or documents, in form and substance reasonably acceptable to the Parties hereto, as may be necessary to effect Buyer's assumption of the Assumed Liabilities and the effective assignment of the Transferred Assets, in each case duly executed by Seller or the applicable Seller Entity, on the one hand, and Buyer, on the other hand.

"**Anti-Corruption Laws**" has the meaning set forth in Section 3.9(a).

"**Assumed Liabilities**" means only the following Liabilities of Seller or any Seller Entity (but only to the extent they do not constitute Excluded Liabilities) and no other Liabilities: (a) all Liabilities under the Transferred Contracts but only to the extent those Liabilities (i) are required to be performed after the Effective Date and (ii) do not relate to any failure to perform, improper performance, warranty, tort, violation of Law or other breach, default or violation by Seller or its Affiliates on or prior to the Effective Date; (b) all Liabilities to the extent arising out of or relating to Buyer's ownership, operation or use of the Transferred Assets or the conduct of the Business after the Effective Date; (c) all Closing Accounts Payable; (d) all Liabilities arising out of or relating to Business Guarantees, but only to the extent those Liabilities (i) arise after the Effective Date and (ii) do not relate to any failure to perform, improper performance, warranty or other breach, default or violation by Seller or its Affiliates on or prior to the Effective Date; and (e) all Taxes and Transfer Taxes allocated to Buyer under Section 5.2.

"**Balance Sheet**" has the meaning set forth in Section 3.4(a).

"**Bankruptcy and Equity Exception**" has the meaning set forth in Section 3.2.

"**Basket Amount**" has the meaning set forth in Section 6.2(b).

"**Benefit Plans**" means any benefit or compensation plan, program, policy, practice, agreement, contract, arrangement or other obligation, whether or not in writing and whether or not funded, in each case, which is sponsored or maintained by, or required to be contributed to, or with respect to which any potential liability is borne by Seller or its Affiliates. Benefit Plans include, but are not limited to, "employee benefit plans" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, "voluntary employees' beneficiary associations," under Section 501(c)(9) of the Code, employment, consulting, retirement, perquisite, severance, termination or change in control agreements, deferred compensation, equity-based, incentive, bonus, supplemental retirement, profit sharing, insurance, medical, welfare, vacation, fringe or other benefits or remuneration of any kind with respect to any employee or former employee.

"**BIS**" has the meaning set forth in Section 3.9(d).

"**Books and Records**" means books of account, ledgers, general, financial and accounting records, files, invoices, customer and supplier lists, other distribution lists, customer billing and credit records, sales and promotional literature, manuals and marketing studies, communications, accounting, sales and business files and records, property records, Tax records, product records, records related to licenses and other files and records, in each case, whether maintained in electronic or physical form, as applicable.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"**Business**" means the mobile virtual network operator services promoted, marketed and sold to subscribers under the Ting brand, including, but not limited to, through the sale of retail telephony services, mobile phone hardware and related accessories.

"**Business Day**" means any day ending at 11:59 p.m. (Eastern Time) other than a Saturday, a Sunday or a day on which banks in the City of New York are authorized or obligated by Law or executive order to close.

"**Business Guarantees**" means any guarantees, credit support, letters of credit, bonds, cash deposits or similar arrangements issued by or on behalf of Seller or any Seller Entity in order to support or facilitate the Business.

"**Buyer**" has the meaning set forth in the Preamble.

"**Buyer Ancillary Counterparty**" means any Affiliate of Buyer that is a party to an Ancillary Agreement.

"**Buyer Front-End Technology**" means a platform (including content, graphics, materials, Software, user interface, design elements and other technology) offered by Buyer or its Affiliates to allow users to sign-up, activate and manage their account, under any Buyer trademark, and provide information about coverage, rates and related topics.

"**Buyer Fundamental Representations**" means the representations and warranties listed in Section 4.1 (*Organization, Good Standing and Qualification*) and Section 4.2 (*Authority; Approval*).

"**Buyer Indemnified Parties**" has the meaning set forth in Section 6.2(a).

"**Buyer Representations**" means the representations made by Buyer in Article IV.

"**Calculation Notice**" has the meaning set forth in Section 2.5(c)(iii).

"**Cap Amount**" has the meaning set forth in Section 6.2(d).

"**Cash**" means, collectively, all cash and cash equivalents, bank accounts, credit cards, bank deposits, investment accounts, lockboxes, certificates of deposit, benefits of credits, marketable securities or investments in other Persons, certificates of deposit, treasury bills and other similar items.

"**Change**" means any change, occurrence, development or effect.

"**Chosen Courts**" has the meaning set forth in Section 7.9(b).

"**Claim Notice**" has the meaning set forth in Section 6.4(a).

"**Closing**" has the meaning set forth in Section 2.6.

"**Closing Accounts Payable**" means the Transferred Accounts Payable as of the Effective Time.

"**Closing Accounts Receivable**" means the remainder of (a) Accounts Receivable as of the Effective Time, *minus* (b) the amount of any such Accounts Receivable not collected as of the time of delivery of the Initial Calculation.

"**Closing Inventory Amount**" means the Inventory Amount as of the Effective Time.

"**Code**" means the Internal Revenue Code of 1986.

"**Commingled Contract**" means (a) all the Contracts set forth on Schedule 2.2(j) and (b) any Contract, contract right, bid, tender, purchase order or other agreement, whether written or oral, relating to (i) the Business and (ii) one or more other businesses of Seller or any Seller Entity.

"**Confidentiality Agreement**" means the Confidentiality Agreement, dated February 25, 2020, between DISH Network L.L.C. and Seller.

"**Consent**" means any consent, license, permit, waiver, approval, authorization or order of, or filing or registration with, or notification to, any Person that is not a Governmental Entity or Seller, Buyer or any Affiliate thereof.

"**Contract**" means any agreement, undertaking, lease, license, contract, note, mortgage, indenture, arrangement or other obligation.

"**DISH Beacon Mark**" means the stylized version of the letter "i" as shown, for example, in USPTO Registration Nos. 4827335, 4827336, 4791219, 4827334 and 3629716, Application Number 88/367958, and all variations thereof as used by Buyer and its Affiliates as of the Effective Date.

"**Disputed Calculation**" has the meaning set forth in Section 2.5(c)(iii).

"**Effective Date**" has the meaning set forth in the Preamble.

"**Effective Time**" means 12:01 a.m. (Eastern Time) on the Effective Date.

"**Encumbrance**" means any lien, charge, pledge, security interest, claim or other encumbrance or third-party right of any kind, including any right of first refusal or restriction on voting.

"**EU**" means the European Union.

"**Excluded Assets**" has the meaning set forth in Section 2.2.

"**Excluded Books and Records**" means (a) all records to the extent relating to personnel, employment and medical records of employees of Seller or any of the Seller Entities and (b) the corporate charter, seal, minute books, stock record books and other similar documents relating to the organization, maintenance and existence of Seller and its Subsidiaries.

"**Excluded Liabilities**" means any Liabilities of Seller or the Seller Entities other than the Assumed Liabilities, including (a) all Liabilities to the extent arising out of or relating to the ownership, operation or use of the Transferred Assets or the conduct of the Business on or prior to the Effective Date; (b) all Indebtedness; (c) all Liabilities to the extent arising out of or relating to any Excluded Asset; (d) all out-of-pocket expenses (including all fees and expenses of counsel, accountants, investment bankers, advisors, experts and consultants to Seller and to its Affiliates) incurred by Seller and the Seller Entities before, on or after the Closing and in connection with or related to the authorization, preparation, negotiation, execution and performance of the Transaction Documents, as well as any such expenses incurred by Seller and the Seller Entities in the pursuit or consideration of any alternative transaction with respect to the Business, the Transferred Assets or the Assumed Liabilities; (e) all Taxes imposed with respect to the Business or the Transferred Assets with respect to taxable periods (or portions thereof) ending on or prior to the Effective Time (determined in accordance with Section 5.2(b)), all Taxes of Seller and its Affiliates and all Taxes and Transfer Taxes allocated to Seller under Section 5.2; (f) all Liabilities arising out of or relating to the recruitment, employment or termination of any employee or independent contractor of the Business (or any dependent or beneficiary of any such employee or independent contractor) by Seller, any of the Seller Entities and/or their Affiliates; (g) all Liabilities related to the Benefit Plans and related trusts or other funding vehicles, services, agreements or other arrangement; (h) the Liabilities set forth on Schedule 2.4; (i) all Liabilities associated with purchase orders and accounts payable or other commitments to the extent such purchase orders, accounts payable or other commitments relate to the acquisition of Rejected Inventory; (j) all Accounts Payable that are not Transferred Accounts Payable; and (k) all Liabilities to the extent arising out of or relating to the Patent Assertions.

"**Final Determination**" means an occurrence where (a) the parties to the dispute have reached an agreement in writing, (b) a court of competent jurisdiction shall have entered a final and non-appealable Order or judgment or (c) an arbitration or like panel shall have rendered a final non-appealable determination with respect to disputes the Parties have agreed to submit thereto.

"**Financial Expert**" has the meaning set forth in Section 2.5(c)(iv).

"**Financial Statements**" has the meaning set forth in Section 3.4(a).

"**Fraud**" means an intentional common law fraud under New York Law (and not a constructive fraud, negligent misrepresentation or omission, or any form of fraud premised on recklessness or negligence) by Seller with respect to the making of the representations and warranties in Article III or by Buyer with respect to the making of the representations and warranties in Article IV.

"**Fundamental Representations**" means the Buyer Fundamental Representations and the Seller Fundamental Representations.

"**Future Payments Period**" has the meaning set forth in Section 2.5(b).

"**GAAP**" means U.S. generally accepted accounting principles.

"**Governmental Entity**" means any U.S. or non-U.S. governmental or regulatory authority, agency, commission, body, court or other legislative, executive, judicial or administrative governmental entity at any level, or any agency, department or instrumentality thereof.

"**HSR Act**" has the meaning set forth in Section 5.14.

"**Incremental Withholding**" has the meaning set forth in Section 2.8(c).

"**Indebtedness**" means, with respect to any Person, without duplication, all obligations or undertakings by such Person (a) for borrowed money (including deposits or advances of any kind to such Person), (b) evidenced by bonds, debentures, notes or similar instruments, (c) for capitalized leases (as determined in accordance with GAAP) or to pay the deferred and unpaid purchase price of property or equipment (excluding Accounts Payable incurred in the Ordinary Course of Business), (d) pursuant to securitization or factoring programs or arrangements, (e) to maintain or cause to be maintained the financing, financial position or covenants of others or to purchase the obligations or property of others, (f) net cash payment obligations of such Person under swaps, options, forward sales Contracts, derivatives and other hedging Contracts, financial instruments or arrangements that will be payable upon termination thereof (assuming termination on the date of determination), (g) letters of credit, bank guarantees, and other similar Contracts or arrangements entered into by or on behalf of such Person or (h) pursuant to guarantees and arrangements having the economic effect of a guarantee (other than a clearing house guarantee) of any obligation or undertaking of any other Person contemplated by the foregoing clauses (a) through (g) of this definition, in each case including all interest, penalties and other payments due with respect thereto.

"**Indemnified Party**" has the meaning set forth in Section 6.4(a).

"**Indemnifying Party**" has the meaning set forth in Section 6.4(a).

"**Information Privacy and Security Requirements**" means all (i) Laws, (ii) written commitments of Seller or any of its Affiliates and (iii) applicable publicly facing statements or policies adopted by Seller or any of its Affiliates, in each case, relating to the access, collection, use, processing, storage, sharing, distribution, disclosure, destruction, disposal, privacy, confidentiality, security, transfer or protection of information that identifies, or could reasonably be used to identify, an individual, browser, device or household.

"**Initial Calculation**" has the meaning set forth in Section 2.5(c)(i).

"**Intellectual Property Rights**" means all rights in or to: (a) trademarks, service marks, brand names, certification marks, collective marks, d/b/a's, domain names, social media accounts, logos, symbols, trade dress, assumed names, fictitious names, trade names and other indicia of origin, all applications and registrations for the foregoing, and all goodwill associated therewith and symbolized thereby, including all renewals of the same (collectively, "**Trademarks**"); (b) inventions and discoveries, whether patentable or not, and all patents, registrations, invention disclosures and applications therefor, including divisions, continuations, continuations-in-part and renewal applications, and including renewals, extensions and reissues (collectively, "**Patents**"); (c) trade secrets, confidential information and know-how, including processes, schematics, business methods, formulae, drawings, prototypes, models, designs, customer lists and supplier lists (collectively, "**Trade Secrets**"); (d) published and unpublished works of authorship, whether copyrightable or not (including, without limitation, databases and other compilations of information), including Software and content, copyrights therein and thereto, registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; and (e) any other intellectual property or proprietary rights.

"**Intracompany Receivables**" means all account, note or loan receivables recorded on the books of Seller or any Seller Entity for goods or services sold or provided by the Business to Seller or any Seller Entity or advances (cash or otherwise) or any other extensions of credit made by the Business to Seller or any Seller Entity, whether current or non-current.

"**Inventory**" means all inventory, including all handsets and SIM cards, related to the Business, wherever located, including all raw materials, work-in-process, supplies, spare parts, unfinished inventory and finished goods, whether held at any location or facility owned or leased by Seller or any Seller Entity or in transit to Seller or any Seller Entity or held on consignment by third parties on behalf of the Business.

"**Inventory Amount**" means the dollar value of all Inventory except for Rejected Inventory.

"**Knowledge**" or any similar phrase means the actual knowledge, after reasonable inquiry of direct reports, of (a) the individuals listed on Schedule 1.1-A with respect to Seller and (b) the individuals listed on Schedule 1.1-B with respect to Buyer.

"**Law**" means any federal, state, local or non-U.S. law, statute or ordinance, common law, or any rule, regulation, standard, judgment, Order, writ, injunction, decree, arbitration award, agency requirement, license or Permit of any Governmental Entity.

"**Liabilities**" means all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including whether arising out of any contract or tort based on negligence or strict liability) and whether or not the same would be required by GAAP to be reflected in financial statements or disclosed in the notes thereto.

"**Losses**" means any and all damages, losses, charges, liabilities, claims, demands, actions, suits, proceedings, payments, judgments, settlements, assessments, deficiencies, Taxes, interest, fines, penalties, and costs and expenses (including expenses of investigation and ongoing monitoring and Third-Party Claim Expenses to the extent provided by Section 6.4(b)(iv) and reasonable and documented out-of-pocket legal fees, costs and expenses reasonably sustained or incurred by an Indemnified Party in investigating claims or recovering Losses).

"**Master Services Agreement**" means the Master Services Agreement, dated as of the Effective Date, by and between Buyer and Ting attached hereto as Exhibit A.

"**Material Adverse Effect**" means any Change that, individually or taken together with any other Changes, (a) is, or could reasonably be expected to be, materially adverse to the condition (financial or otherwise), properties, assets, liabilities (contingent or otherwise), business, operations or results of operations of the Business, taken as a whole, or on the Transferred Assets and the Assumed Liabilities, taken as a whole; or (b) prevents or would reasonably be expected to prevent, materially delay or materially impair the ability of Seller to consummate the Transaction or the other transactions contemplated by this Agreement; provided, however, that for the purposes of the foregoing clause (a), none of the following shall be taken into account (either alone or in combination) in determining whether there has occurred or would reasonably be expected to occur, a Material Adverse Effect:

(i) Changes in the general economic, political, business or regulatory conditions in the U.S., including Changes in the credit, capital, securities or financial markets;

(ii) Changes that are the result of factors generally affecting the industry in which the Business operates;

(iii) Changes in accounting standards applicable to the Business, including GAAP, or in any applicable Law, including the repeal thereof, or in the interpretation or enforcement thereof, after the Effective Date;

(iv) Changes that are the result of any natural disaster or global, national or regional political conditions, including acts of war, sabotage, acts of terrorism (including cyberterrorism) or military action or the threat or escalation thereof;

(v) Changes that are the result of the presence of disease, any epidemic or pandemic (including COVID-19), or any actions taken by any Governmental Entity or other third party in response thereto; and

(vi) any failure by the Business to meet any internal or public projections, forecasts or budgets or estimates of revenues for any period; provided, that the exception in this clause (vi) shall not prevent or otherwise affect a determination that any Change (not otherwise excluded under this definition) underlying such failure has resulted in, or contributed to, or could reasonably be expected to result in, or contribute to, a Material Adverse Effect;

provided, further, that, with respect to clauses (i), (ii), (iii), (iv) and (v), such Change shall be taken into account in determining whether a "Material Adverse Effect" has occurred or is occurring to the extent such Change disproportionately affects the Business relative to other participants in the industry in which the Business operates.

"**Material Commingled Contracts**" means all Commingled Contracts set forth in Section 3.18 of the Seller Disclosure Letter.

"**Monthly Future Payments**" has the meaning set forth in Section 2.5(b).

"**Monthly Service Fees**" has the meaning set forth in Schedule C to the Master Services Agreement.

"**Most Recent Balance Sheet Date**" has the meaning set forth in Section 3.4(a).

"**Network Costs**" means the costs set forth under the heading "Network Costs" on Schedule 2.5(b).

"**New Contract**" has the meaning set forth in Section 5.12.

"**Nonparty**" has the meaning set forth in Section 6.7(b).

"**Order**" means any administrative decision or award, decree, injunction, judgment, order, quasi-judicial decision or award, ruling or writ of any arbitrator, mediator or Governmental Entity.

"**Ordinary Course**" or "**Ordinary Course of Business**" means the conduct of the Business, consistent with the normal day-to-day customs, practices and procedures of the Business.

"**Other Costs**" means the costs set forth under the heading "Other Costs" on Schedule 2.5(b).

"**Party**" or "**Parties**" has the meaning set forth in the Preamble.

"**Patent Assertions**" means the claims set forth on Schedule 5.8.

"**Patents**" has the meaning set forth in the "Intellectual Property Rights" definition.

"**Per Claim Amount**" has the meaning set forth in Section 6.2(b).

"**Permit**" means any consent, license, permit, waiver, variance, exemption, approval, authorization, certificate, registration or filing issued by, obtained from or made with a Governmental Entity.

"**Permitted Encumbrances**" means (a) Encumbrances for Taxes not yet due and payable; (b) any mechanics', carriers', workmen's, repairmen's, statutorily imposed, or other like Encumbrances arising in the Ordinary Course of Business; and (c) such other imperfections of title or Encumbrances, if any, as do not, individually or in the aggregate, materially detract from the value or otherwise materially interfere with the current or continued use and operation of any of the Transferred Assets.

"**Person**" means any natural person, corporation, company, partnership (general or limited), limited liability company, trust or other entity.

"**Personal Information**" has the meaning provided by the applicable Information Privacy and Security Requirements.

"**Post-Closing Payment**" has the meaning set forth in Section 2.5(c)(v).

"**Pre-Closing Tax Period**" has the meaning set forth in Section 5.2(e).

"**Pre-Closing Tax Refunds**" has the meaning set forth in Section 5.2(d).

"**Public Official**" means any Person employed by, representing or acting on behalf of a Governmental Entity or enterprise thereof (including a state-owned or state-controlled enterprise) or a public international organization, any representative or official of a political party or any candidate for any political office and any relatives of, or close associates to, any of the foregoing.

"**Records**" has the meaning set forth in Section 5.1(a).

"**Registered**" means issued by, registered with, renewed by or the subject of a pending application before any Governmental Entity or domain name registrar.

"**Rejected Inventory**" means the Inventory identified by SKU listed on Schedule 1.1-C.

"**Review Period**" has the meaning set forth in Section 2.5(c)(iii).

"**Sample Working Capital Schedule**" has the meaning set forth in Section 2.5(c)(i).

"**Seller**" has the meaning set forth in the Preamble.

"**Seller Disclosure Letter**" has the meaning set forth in Article III.

"**Seller Entities**" means all of the Affiliates of Seller that own or hold the rights to any Transferred Assets or are subject to any Assumed Liabilities, including Tucows (Delaware) Inc. and Ting.

"**Seller Fundamental Representations**" means the representations and warranties of Seller set forth in Section 3.1 (*Organization, Good Standing and Qualification*); Section 3.2 (*Authority; Approval*); Section 3.11(a) (*Title*); and Section 3.15 (*Brokers and Finders*).

"**Seller Indemnified Parties**" has the meaning set forth in Section 6.3(a).

"**Seller Release**" means the release of claims against Buyer duly executed by Seller and each Seller Entity on behalf of themselves and their respective successors, assigns, representatives, administrators, executors, beneficiaries, agents and their Affiliates, dated as of the Effective Date, attached hereto as Exhibit B.

"**Seller Representations**" means the representations made by Seller in Article III.

"**Seller Services**" means those services to be provided by Seller or any of its Affiliates to Buyer or any of its Affiliates pursuant to this Agreement or any Ancillary Agreement.

"**Service Revenue**" means revenue collected from voice, data, messaging, monthly recurring, device and other categories, as outlined and set forth in Schedule 2.5(b) in an illustrative calculation.

"**Significant Distributor**" has the meaning set forth in Section 3.16(a).

"**Significant Supplier**" has the meaning set forth in Section 3.16(b).

"**Software**" means any computer program, application, middleware, firmware, microcode and other software, including operating systems, software implementations of algorithms, models and methodologies, in each case, whether in source code, object code or other form or format, including libraries, subroutines and other components thereof.

"**Sole Source Supplier**" has the meaning set forth in Section 3.16(b).

"**Solvent**" means, with respect to any Person, that such Person (a) is and will be able to pay its respective obligations under this Agreement in the Ordinary Course of Business as they become due and owns and will own property that has a fair saleable value greater than the amounts required to pay its respective Liabilities (including all Excluded Liabilities), and (b) does not have and will not have unreasonably small capital to carry on its respective businesses.

"**Specified Assets**" means all assets related to the Business set forth on Schedule 2.1(b).

"**Statement**" has the meaning set forth in Section 2.5(b).

"**Straddle Period**" has the meaning set forth in Section 5.2(b).

"**Stylized Ting Mark**" has the meaning set forth in Section 5.8(b).

"**Subscriber Base Assets**" means all customer and subscriber accounts of the Business and any other assets related thereto, including (a) all account information, usage information and other information about subscribers with active accounts as of the Effective Date; (b) all account information, usage information and other information about former subscribers whose accounts were deactivated during the twenty-four (24)-month period prior to the Effective Date; (c) all customer Contracts; (d) all customer lead information, including lead lists from marketing efforts, cart fall out, re-targeting campaigns and related information; and (e) all customer demographic, survey and profile information. [REDACTED]

"**Subscribers**" has the meaning set forth in Section 3.17.

"**Subsidiary**" means, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions is directly or indirectly owned or controlled by such Person and/or by one or more of its Subsidiaries.

"**Targeted Sanctions**" has the meaning set forth in Section 3.9(d).

"**Tax Returns**" means all reports and returns filed or required to be filed with respect to Taxes.

"**Taxes**" means all federal, state or local and all foreign taxes, including income, gross receipts, windfall profits, value added, severance, property, production, sales, use, duty, license, excise, franchise, employment, withholding or similar taxes, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Territorial Sanctions**" has the meaning set forth in Section 3.9(d).

"**Third-Party Claim**" has the meaning set forth in Section 6.4(b).

"**Third-Party Claim Expenses**" has the meaning set forth in Section 6.4(b)(iv).

"**Ting**" has the meaning set forth in the Recitals.

"**Ting API**" means any application programming interface utilized to communicate between the Ting Front-End Technology and the Ting Back-End Technology, including all communication protocols, data structures, data formats and data tags used therein or thereby.

"**Ting Back-End Technology**" means the Software and other technology used by Ting (or its third-party providers) to provide the services under the Master Services Agreement and the Transition Services Agreement, including the Ting API, but excluding the Ting Front-End Technology.

[REDACTED] "**Ting Front-End Technology**" means the platform (including content, graphics, materials, Software, user interface, design elements, and other technology) used on ting.com and associated mobile applications and websites, in each case, to allow users to sign-up for, activate and manage their accounts, and provide information about coverage, rates and related topics.

"**Ting Marks**" means the Trademarks set forth on Schedule 2.2(b), including all goodwill associated with, or symbolized by, any of the foregoing.

"**Ting Marks Assets**" has the meaning set forth in Section 5.8(d).

"**Ting Trademark Assertion**" has the meaning set forth in Section 5.8(c).

"**Trade Secrets**" has the meaning set forth in the "Intellectual Property Rights" definition.

"**Trademark License Term**" means the period beginning on the Effective Date and ending the sooner of (a) thirty (30) months following the Effective Date or (b) [REDACTED].

"**Trademarks**" has the meaning set forth in the "Intellectual Property Rights" definition.

"**Transaction**" means the purchase and sale of the Transferred Assets, the assumption of the Assumed Liabilities and the other transactions contemplated hereby.

"**Transaction Documents**" means, collectively, the Agreement and the Ancillary Agreements.

"**Transfer**" means to sell, assign, transfer, convey and deliver.

"**Transfer Taxes**" has the meaning set forth in Section 5.2(c).

"**Transferred Accounts Payable**" means the Accounts Payable in the categories set forth on the Sample Working Capital Schedule.

"**Transferred Assets**" has the meaning set forth in Section 2.1.

"**Transferred Contracts**" means all Contracts listed on Schedule 2.1(a).

"**Transferred Intellectual Property**" means all Intellectual Property Rights owned by Seller or any Seller Entity in or to any of the Transferred Assets, including the Subscriber Base Assets, and the Books and Records that are included within the Transferred Assets; provided, that Transferred Intellectual Property does not include any Software.

"**Transition Services Agreement**" means the Transition Services Agreement, dated as of the Effective Date, by and between DISH Purchasing Corporation and Ting attached hereto as Exhibit D.

Section 1.2 [REDACTED][REDACTED] [REDACTED] Other Terms. Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

## ARTICLE II

## PURCHASE AND SALE OF THE BUSINESS

Section 2.1 Purchase and Sale of Assets. On the terms and subject to the conditions set forth herein, (a) Seller hereby, on behalf of itself and the Seller Entities, Transfers (and shall cause the Seller Entities to Transfer) to Buyer free and clear of all Encumbrances, other than Permitted Encumbrances; and (b) Buyer hereby purchases from Seller or the applicable Seller Entity, the entirety of Seller's and such Seller Entity's right, title and interest in and to the following assets, except to the extent that they are Excluded Assets (collectively, the "**Transferred Assets**"):

(a) all Transferred Contracts;

(b) all Specified Assets;

(c) all (i) Transferred Intellectual Property; and (ii) all claims, causes of action and enforcement rights of any kind, all rights to sue for infringement of all Transferred Intellectual Property and to collect and retain any and all damages, costs, profits, injunctive relief and other remedies for or relating to any such infringement of the Transferred Intellectual Property or any and all claims relating thereto;

(d) all Subscriber Base Assets;

(e) copies of all Books and Records related to any Transferred Assets;

(f) all Accounts Receivable;

(g) all goodwill related to the Business;

(h) all Inventory except for Rejected Inventory;

(i) all purchase orders or other commitments related to the Business that remain unfulfilled as of the Closing, other than (A) as expressly included in the Excluded Assets or (B) as set forth on Schedule 2.1(i);

(j) all credits, prepaid expenses, deferred charges, advance payments, refunds, security deposits, prepaid items and duties (other than prepaid insurance) to the extent related to a Transferred Asset; and

(k) all guaranties, warranties, indemnities and similar rights in favor of Seller or any Seller Entity to the extent related to any Transferred Asset.

Section 2.2 Excluded Assets. Notwithstanding anything to the contrary set forth in this Agreement, Seller and the Seller Entities shall retain all of their existing right, title and interest in and to, and there shall be excluded from the Transfer to Buyer hereunder, and the Transferred Assets shall not include the following (collectively, the "**Excluded Assets**"):

(a) subject to the assignment of insurance proceeds to Buyer pursuant to Section 5.3, all insurance policies and binders of Seller and the Seller Entities, and all rights of action, lawsuits, benefits, claims, demands, rights of recovery and set-off, and proceeds, under or with respect to such insurance policies;

(b) [REDACTED] the Ting Front-End Technology and the Ting Back-End Technology;

(c) all claims, causes of action and enforcement rights of any kind, all rights to sue for infringement of all Transferred Intellectual Property and to collect and retain any and all damages, costs, profits, injunctive relief and other remedies for or relating to any such infringement of the Transferred Intellectual Property or any and all claims relating thereto, in each case to the extent such infringement occurred prior the Closing;

(d) all Excluded Books and Records, wherever located;

(e) all Tax assets (including duty and tax refunds and prepayments) of Seller or any Seller Entity;

(f) all employees and independent contractors and all rights in connection with any assets of the Benefit Plans and related trusts or other funding vehicles;

(g) all Intracompany Receivables;

(h) all Actions available to or being pursued by Seller or any Seller Entity to the extent related to the Transferred Assets, the Assumed Liabilities or the ownership, use, function or value of any Transferred Asset, whether arising by way of counterclaim or otherwise, whether known or unknown, absolute or contingent, matured or unmatured, determined or undeterminable, in each case to the extent related to matters that occurred prior to the Effective Date;

(i) any shares or other equity interests in any Person or any securities of any Person;

(j) all Commingled Contracts, subject to Section 5.12; and

(k) all Cash.

Section 2.3 Assumption of Liabilities. On the terms and subject to the conditions set forth herein, and subject to Section 2.4, Buyer, or one or more of its Affiliates, hereby assumes and agrees to discharge and perform when due or payable all the Assumed Liabilities.

Section 2.4 Excluded Liabilities. Notwithstanding anything to the contrary set forth in this Agreement, Seller and its Affiliates shall retain, and Buyer and its Affiliates shall not assume, any Excluded Liability, and, as between Buyer and Seller, Seller and its Affiliates shall be responsible for, and shall discharge and perform when due or payable, all Excluded Liabilities.

Section 2.5 Purchase Price and Payments.

(a) Purchase Price; Allocation. The aggregate purchase price for the Transferred Assets shall be the Monthly Future Payments, the Post-Closing Payment and the assumption of the Assumed Liabilities. For purposes of allocating any consideration with respect to the Transferred Assets acquired hereunder, any Inventory or Accounts Receivable shall be valued based on the book value of such assets immediately prior to Closing.

(b) Future Payments. On the terms and subject to the conditions set forth herein, in consideration for the sale of the Transferred Assets, in addition to the assumption of the Assumed Liabilities, Buyer shall, for a period of ten (10) years following the Effective Date (the "**Future Payments Period**"), deliver to Seller, an amount in cash equal to the remainder of [REDACTED] Buyer shall deliver the Monthly Future Payments within thirty (30) days following the receipt of the applicable monthly invoices for the Transition Services Agreement and the Master Services Agreement. Simultaneously with each payment to be delivered by Buyer to Seller, Buyer shall also deliver to Seller a monthly statement setting forth the amount of each component of the Monthly Future Payment in respect of such payment (the "**Statement**"), provided, that Buyer's inclusion in such Statement of any amount provided by Seller in monthly invoices for the Transition Services Agreement and the Master Services Agreement shall not be deemed an agreement by Buyer as to the accuracy of any such amounts. Buyer may request and Seller shall provide to Buyer copies of Seller's records relating to the calculation of the amounts owed to Seller pursuant to the Transition Services Agreement and the Master Services Agreement. Seller may request and Buyer shall provide to Seller copies of Buyer's records relating to the calculation of such Monthly Future Payments other than amounts owed pursuant to the Transition Services Agreement and the Master Services Agreement. In the event the records reveal that Buyer has underpaid Seller, then, within thirty (30) days following Seller's delivery of notice of such underpayment, Buyer shall pay to Seller the amount of any undisputed underpayment. Notwithstanding anything to the contrary in this Agreement, if Buyer is entitled to recover Losses pursuant to Article VI, Buyer may, and in addition to any other right or remedy it may have, set off all or any portion of the amount of such Losses against any Monthly Future Payments that are payable under this Section 2.5(b). In the event the amount of any Monthly Future Payment that has been paid is later determined to have been incorrect as a result of the resolution of a disputed charge or payment under the Transition Services Agreement or Master Services Agreement, Buyer and Seller shall cooperate in good faith to correct such Monthly Future Payment, and shall refund or pay, as applicable, in order to make such correction.

(c) Post-Closing Payment.

(i) Seller shall cause to be prepared and, no later than sixty (60) days after the Effective Date, delivered to Buyer a statement setting forth Seller's calculation of the Closing Accounts Receivable, the Closing Inventory Amount and the Closing Accounts Payable (the "**Initial Calculation**"), together with appropriate supporting information. For illustration purposes only, set forth as Exhibit F is a sample working capital schedule showing the amounts of Accounts Receivable, Inventory and Transferred Accounts Payable as of May 31, 2020 (the "**Sample Working Capital Schedule**"), and the Initial Calculation shall be prepared in accordance with the Accounting Principles and shall be consistent with the Sample Working Capital Schedule.

(ii) From and after the Effective Date, Seller shall, and shall cause its Affiliates to, on reasonable prior notice to Seller and subject to the execution of customary work paper access letters if requested by accountants of Seller, (A) provide Buyer and its representatives with reasonable access during normal business hours to the facilities, Records and work papers of the Business and (B) cooperate with and assist Buyer and its representatives in connection with the review of such materials, including by making available their employees, accountants and other personnel to the extent reasonably requested, in each case in connection with Buyer's review of the Initial Calculation; provided, that, in the event that Seller does not provide such access or cooperation reasonably requested by Buyer or any of its representatives within two (2) Business Days of any request therefor (or, such shorter period as may remain in the Review Period), the Review Period will be extended by one (1) Business Day for each additional day required for Seller to fully respond to such request.

(iii) Within thirty (30) days after receipt by Buyer of the Initial Calculation (the "**Review Period**"), Buyer may deliver to Seller a written notice (the "**Calculation Notice**") either (i) advising Seller that Buyer agrees with and accepts the Initial Calculation or (ii) setting forth an explanation in reasonable detail of those items in the Initial Calculation that Buyer disputes and of what Buyer believes is the correct calculation of the Closing Accounts Receivable, the Closing Inventory Amount and the Closing Accounts Payable (a "**Disputed Calculation**"). If Buyer does not submit a Calculation Notice within the Review Period, then the Initial Calculation shall become final and shall not be subject to further review, challenge or adjustment. If Seller shall concur with the Calculation Notice, or if Seller shall not object to the Calculation Notice in a writing received by Buyer within thirty (30) days after Seller's receipt of the Calculation Notice, the calculation of the Closing Accounts Receivable, the Closing Inventory Amount and the Closing Accounts Payable set forth in the Calculation Notice shall become final and shall not be subject to further review, challenge or adjustment.

(iv) If Buyer has submitted a Calculation Notice, but Seller and Buyer are unable to resolve any disputes regarding the Closing Accounts Receivable, the Closing Inventory Amount and/or the Closing Accounts Payable within twenty (20) days after the date of objection to the Calculation Notice, such dispute shall be referred to BDO USA LLP to resolve the amount of the Closing Accounts Receivable, the Closing Inventory Amount and/or the Closing Accounts Payable that is in dispute, or if BDO USA LLP is unwilling or unable (due to a conflict or otherwise) to serve, such other recognized firm of independent financial experts selected by mutual agreement of Buyer and Seller (the "**Financial Expert**"), and the determination of the Financial Expert, which shall be in writing, shall be final and binding on the parties and shall not be subject to further review, challenge or adjustment absent manifest error. Buyer and Seller shall, promptly (but in any event within ten (10) Business Days) following the formal engagement of the Financial Expert, provide the Financial Expert (copying the other upon submission) with a written presentation setting forth its calculations of and assertions regarding the Disputed Calculation and shall allow the Financial Expert to conduct an independent analysis and audit of the Disputed Calculation using the Accounting Principles and the Sample Working Capital Schedule. The Financial Expert shall determine the Closing Accounts Receivable, the Closing Inventory Amount and the Closing Accounts Payable in accordance with the Accounting Principles and the standards described in this Section 2.5(c), acting as an expert and not an arbitrator. The Financial Expert shall be instructed by Buyer and Seller to use its best efforts to reach such determination not more than thirty (30) days after such referral. Nothing herein shall be construed to authorize or permit the Financial Expert to resolve any specific item in dispute by making an adjustment that is outside the range for such specific item as defined in the Initial Calculation and the Disputed Calculation. Buyer and Seller shall each pay its own costs and expenses incurred in connection with this Section 2.5(c); provided, however, that the fees and expenses of the Financial Expert shall be borne by Seller, on the one hand, and Buyer, on the other hand, in proportion to the dollar value of the item(s) subject to the dispute determined in favor of the other party.

(v) The "**Post-Closing Payment**" shall be an amount equal to: (A) the Closing Accounts Receivable; plus (B) the Closing Inventory Amount; minus (C) the Closing Accounts Payable, each as finally determined pursuant to this Section 2.5(c). If the Post-Closing Payment is positive, then Buyer shall deliver to Seller, by wire transfer of immediately available funds to such account or accounts as have been specified in writing by Seller to Buyer, an amount equal to the Post-Closing Payment.

(vi) If the Post-Closing Payment is negative, then Seller shall deliver to Buyer, by wire transfer of immediately available funds to such account or accounts as have been specified in writing by Buyer to Seller, an amount equal to the Post-Closing Payment.

(vii) If the Post-Closing Payment is zero (0), then neither Buyer nor Seller shall have any payment obligation pursuant to this Section 2.5(c).

(viii) Amounts paid pursuant to this Section 2.5(c) shall be deemed for Tax purposes to be consideration paid pursuant to the Transaction to the extent permitted by applicable Law. Any payments made by any Person pursuant to this Section 2.5(c) shall be made within five (5) Business Days after the date on which the Closing Accounts Receivable, the Closing Inventory Amount and the Closing Accounts Payable are final and binding on the parties.

Section 2.6 Closing. The closing of the purchase and sale of the Transferred Assets and the assumption of the Assumed Liabilities (the "**Closing**") shall take place at the offices of Sullivan & Cromwell LLP, 125 Broad Street, New York, New York 10004 (or by means of a virtual closing through electronic exchange of signatures), on the Effective Date, immediately following the execution and delivery of this Agreement. The Closing shall be deemed effective as of the Effective Time.

Section 2.7 Nonassignability of Assets. Notwithstanding anything to the contrary set forth in this Agreement, to the extent that the Transfer or attempted Transfer to Buyer of any asset that would be a Transferred Asset or any claim or right or any benefit arising thereunder or resulting therefrom is (i) prohibited by any applicable Law or (ii) without a Permit or Consent would (A) constitute a breach or other contravention thereof, (B) subject Seller, Buyer or any of their respective officers, directors, agents or Affiliates to criminal liability or (C) be ineffective, void or voidable and such Permit or Consent has not been obtained prior to the Closing, then in each case, the Closing shall proceed without the Transfer of such asset. The Parties shall use their reasonable best efforts to promptly obtain such Permit or Consent. Pending obtaining such Permit or Consent, Seller and Buyer shall use commercially reasonable efforts to cooperate with each other to agree to any reasonable and lawful arrangements designed to provide Buyer with the economic claims, rights and benefits under such asset and assume the economic burdens and obligations with respect thereto in accordance with this Agreement, including by subcontracting, sublicensing or subleasing to Buyer to the extent contractually permissible. Once the required Permit or Consent is obtained, Seller shall, or shall cause the relevant Affiliates to, Transfer such asset to Buyer at no additional cost to Buyer.

Section 2.8 Withholding.

(a) Buyer shall be entitled to deduct and withhold from any payments to be made hereunder such amounts, if any, that it is required to deduct and withhold on account of Taxes under applicable Law. To the extent any amounts are so deducted and withheld in accordance with the previous sentence, and duly and timely deposited with the appropriate Governmental Entity by Buyer, such amounts shall be treated for purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

(b) Notwithstanding any provision hereof to the contrary, no amount shall be deducted and withheld from any amounts payable to Seller pursuant to this Agreement (including, but not limited to, payments made pursuant to Section 5.8(f)) unless (i) Buyer, or any other Person making such payment, shall provide Seller with commercially reasonable notice, in writing, proposing the amount of such withholding and identifying the applicable Law requiring such deduction and withholding; and (ii) Buyer and, if applicable, the other Person making such payment, cooperates with Seller in good faith to the extent reasonable to obtain reduction of or relief from such obligation to deduct and withhold.

(c) To the extent any withholding or deduction is required to be made from payments made hereunder as a result of an assignment by Buyer (or its Affiliates) of this Agreement to a non-U.S. Affiliate of Buyer, which withholding or deduction would not have been required absent such assignment, (any such amount withheld or deducted, an "**Incremental Withholding**"), Buyer shall increase the payment otherwise payable pursuant to this Agreement as necessary so that after such Incremental Withholding has been made (including such withholdings and deductions applicable to additional sums payable under this Section 2.8(c)) the recipient receives an amount equal to the payment it would have received had no such Incremental Withholding been made.

## ARTICLE III

## REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the corresponding sections or subsections of the disclosure letter delivered to Buyer by Seller on or prior to the Effective Date (the "**Seller Disclosure Letter**") (it being agreed that disclosure of any item in any section or subsection of the Seller Disclosure Letter shall be deemed disclosure with respect to any other section or subsection to which the relevance of such item is reasonably apparent based on a plain reading of such disclosure), Seller hereby represents and warrants to Buyer as follows:

Section 3.1 Organization, Good Standing and Qualification. Seller and each Seller Entity (a) is a legal entity duly organized, validly existing and in good standing under the Laws of its respective jurisdiction of organization, (b) has all requisite corporate or similar power and authority to own, lease and operate the Transferred Assets currently held by it and to carry on such portion of the Business as is presently conducted by it and (c) is qualified to do business and is in good standing as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of Transferred Assets or conduct of the Business conducted by it requires such qualification, except where the failure to be so qualified or in good standing would not materially affect the operation of the Business.

Section 3.2 Authority; Approval(a). Seller and each Seller Entity that is a party to any of the Transaction Documents has all requisite corporate or other organizational power and authority to execute and deliver each of the Transaction Documents to which it is or will be a party, to perform its obligations thereunder and to consummate the Transaction. The execution, delivery and performance of this Agreement by Seller has been duly and validly authorized by all necessary corporate action on the part of Seller. The execution, delivery and performance of each of the Ancillary Agreements to which Seller or any Seller Entity is a party has been duly authorized by all necessary corporate or other action on the part of such Person. This Agreement and each of the Ancillary Agreements have been duly executed and delivered by Seller and each Seller Entity party thereto and, when executed and delivered by Buyer and the other parties thereto, will constitute a valid and binding agreement of Seller and each such Seller Entity, enforceable against Seller and each such Seller Entity pursuant to its terms, subject to bankruptcy, insolvency, fraudulent conveyance, preferential transfer, reorganization, moratorium and similar Laws relating to or affecting creditors' rights generally and subject to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) (the "**Bankruptcy and Equity Exception**").

Section 3.3 Governmental Filings; No Violations.

(a) No notices, reports or other filings are required to be made by Seller or any of the Seller Entities with, nor are any Permits required to be obtained by Seller or any of the Seller Entities from, any Governmental Entity, in connection with the execution, delivery and performance of the Transaction Documents by Seller or any Seller Entity or the consummation of the Transaction, except for such notices, reports, other filings or Permits that the failure to make or obtain would not prevent, materially delay or materially impair the consummation of the Transaction.

(b) The execution, delivery and performance by Seller and each of the Seller Entities of the Transaction Documents to which they are a party do not, and the consummation of the transactions contemplated hereby and thereby will not, conflict with or result in any violation of or default (with or without notice, lapse of time or both) under, or give rise to any right of termination, loss of rights, adverse modification of provisions, cancellation or acceleration of any obligations under, or result in the creation of any Encumbrance, other than a Permitted Encumbrance, upon any of the Transferred Assets under any provision of (i) the certificate of incorporation, bylaws or comparable governing documents of Seller or any Seller Entity, (ii) any Transferred Contract or (iii) any Law to which Seller or any Seller Entity, the Business and the Transferred Assets are subject, other than in the case of clause (ii), immaterial conflicts, immaterial violations or immaterial defaults of such Transferred Contracts that do not give rise to any right of termination, loss of material rights, adverse modification of provisions, cancellation or accelerations of any obligations under, or result in the creation of any Encumbrance (other than a Permitted Encumbrance).

Section 3.4 Financial Statements.

(a) Section 3.4(a) of the Seller Disclosure Letter sets forth (i) the audited consolidated balance sheet of Seller as of December 31, 2019 and the related audited income statement for the period beginning January 1, 2019 and ended December 31, 2019 (collectively, the "**Financial Statements**") and (ii) an unaudited balance sheet of Ting (the "**Balance Sheet**") as of May 31, 2020 (the "**Most Recent Balance Sheet Date**"). The Balance Sheet was derived from the financial data inputs into the Financial Statements and the financial accounting and reporting systems of Seller. The Balance Sheet and the Financial Statements have been prepared in accordance with GAAP applied on a basis consistent with prior periods and in accordance with the applicable Books and Records of Seller and the Seller Entities.

(b) The Financial Statements fairly present in all material respects the financial position of the Business, taken as a whole, during the applicable period presented therein.

(c) All Accounts Receivable are valid receivables and were incurred in the Ordinary Course of Business for *bona fide* transactions involving the sale of goods or services rendered. No such Accounts Receivable (i) are subject to any pending or threatened set-off, discount or counterclaim, other than for which a reserve has been established on the Balance Sheet or (ii) have been assigned or pledged to any Person.

(d) Section 3.4(d) of the Seller Disclosure Letter sets forth a true, complete and correct list of all items of Inventory held by Seller and each Seller Entity (broken down on an individual SKU basis) as of May 31, 2020. All Inventory has been maintained in the Ordinary Course of Business, consists of items of a quality usable or saleable in the Ordinary Course of Business (subject in each case to the extent of reserves established thereunder) and is and will be in quantities sufficient for the normal operation of the Business in the Ordinary Course of Business. All damaged and/or obsolete units of Inventory have been written off or written down to their appropriate value on the Balance Sheet.

Section 3.5 Absence of Certain Changes.

Except as set forth on Section 3.5 of the Seller Disclosure Letter, since the Most Recent Balance Sheet Date, (A) Seller and the Seller Entities have conducted the Business in the Ordinary Course, consistent with past practice (except for actions related to the negotiation, execution or delivery of this Agreement or the Transaction (or the sales process relating to the potential sale of the Business)) and (B) there has not been:

(i) any incurrence, assumption or guarantee by Seller or any Seller Entity of any Indebtedness for borrowed money related to the Business;

(ii) any creation or other incurrence of any Encumbrance on any Transferred Asset, other than Permitted Encumbrances;

(iii) the modification, amendment, cancellation, termination (receipt of notice of termination), forfeiture or failure to renew (other than in the Ordinary Course of Business) any of the Transferred Contracts or Contracts that would have been Transferred Contracts but for such termination prior to the Effective Date;

(iv) any merger or consolidation involving the Business or any sale, assignment, lease or other transfer or disposition of any of the Transferred Assets (or of any assets that would have constituted Transferred Assets if such assets were owned by Seller or its Affiliates as of the Closing), other than in the Ordinary Course of Business;

(v) any transaction or commitment made by Seller or any Seller Entity relating to the Transferred Assets (including the acquisition of any assets) or any relinquishment by Seller of any of the Transferred Contracts or other right, in either case, other than transactions and commitments in the Ordinary Course of Business consistent with past practice and those contemplated by this Agreement;

(vi) any (A) delay or acceleration of collection of any Accounts Receivable in advance of or beyond their regular due dates or the dates when the same would have been collected in the Ordinary Course of Business or (B) delay or acceleration of payment of any Transferred Accounts Payable in advance of their due date or the date such liability would have been paid in the Ordinary Course of Business;

(vii) any sales of, or offers to sell, Inventory at a greater discount from listed prices than offered for such Inventory in the Ordinary Course of Business for such Inventory;

(viii) any material damage, destruction or other casualty loss with respect to any material asset or property owned, leased or otherwise used by Seller or any of its Subsidiaries, whether or not covered by insurance, that would have been a Transferred Asset but for such material damage, destruction or other casualty loss; or

(ix) any Change that has had a Material Adverse Effect.

Section 3.6 No Undisclosed Liabilities. There are no Liabilities of the Business of a type required to be reflected on a balance sheet prepared in accordance with GAAP, other than Liabilities that (a) are adequately reflected or reserved against on the Balance Sheet, (b) have been incurred since the Most Recent Balance Sheet Date in the Ordinary Course, (c) have been incurred in the performance of obligations under the Transferred Contracts (but not Liabilities incurred as a result of breaches of any such Transferred Contract) or (d) are Excluded Liabilities.

Section 3.7 Litigation.

(a) As of the Effective Date, there are no, and since January 1, 2018, there have been no, Actions pending or, to the Knowledge of Seller, threatened against Seller or any of the Seller Entities related to the Business.

(b) Neither Seller nor any Seller Entity is a party to or subject to the provisions of any Order of any Governmental Entity related to the Business.

Section 3.8 Compliance with Laws; Permits.

(a) The Business is not being and has not been conducted in violation of any applicable Laws in any material respect. No investigation or review by any Governmental Entity with respect to the Business is pending or has been threatened in writing. Seller has not received any notice or communication alleging any material noncompliance with any such applicable Laws by the Business.

(b) Seller and each Seller Entity has obtained and is in compliance in all material respects with all Permits required to conduct the Business as presently conducted.

Section 3.9 Anti-Corruption; Sanctions.

(a) Each of Seller and the Seller Entities has complied with all applicable provisions and requirements of the U.S. Foreign Corrupt Practices Act of 1977 and all other applicable anti-bribery, anti-corruption and anti-money laundering Laws (the "**Anti-Corruption Laws**") in all material respects. Seller and the Seller Entities have instituted and since January 1, 2018 have maintained policies and procedures reasonably designed to ensure, and that are effective at ensuring, compliance by the Business with, and preventing breaches by the Business of, such Anti-Corruption Laws.

(b) None of Seller or any of the Seller Entities or any of their respective directors, officers or employees or, to the Knowledge of Seller, any agents, representatives or other Persons who perform or have performed services on their behalf have, since January 1, 2018, directly or indirectly, in connection with the Business, violated, or been subject to actual or pending or threatened civil, criminal, administrative or other actions, suits, demands, claims, hearings, notices of violation, investigations, proceedings, demand letters, settlements or enforcement actions relating to, any Anti-Corruption Law or any Law or regulation related to anti-corruption, anti-money laundering or terrorism financing.

(c) None of Seller or any of the Seller Entities or any of their respective directors, officers or employees or, to the Knowledge of Seller, any agents, representatives or other Persons who perform or have performed services on their behalf have, since January 1, 2018, directly or indirectly, in connection with the Business, given, made, offered, promised, authorized or received or agreed to give, make, offer, promise, authorize or receive any payment, gift, contribution, commission, rebate, promotional allowance, expenditure or other economic advantage or benefit: (i) that would violate any applicable Anti-Corruption Law; or (ii) to or for a Public Official with the intention of: (A) improperly influencing any official act or decision of such Public Official; (B) inducing such Public Official to do or omit to do any act in violation of his lawful duty; (C) securing any improper advantage or benefit; or (D) inducing such Public Official to influence or affect any act or decision of any Governmental Entity or commercial enterprise owned or controlled by any Governmental Entity.

(d) None of Seller or any of the Seller Entities or any of their respective directors, officers, employees, agents, representatives or other Persons, in each case, who perform or have performed services with respect to the Business on behalf of Seller or any Seller Entity is a Person that is, or is owned fifty percent (50%) or more, individually or in the aggregate, directly or indirectly, or controlled by one or more Persons that are: (i) the subject or target of any economic or trade sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (including designation as a "Specially Designated National or Blocked Person"), the U.S. Department of State, the United Nations Security Council, the EU, Her Majesty's Treasury, or any other applicable sanctions authority, or any executive order, directive or regulation pursuant to the authority of any of the foregoing, including the regulations of the United States Department of the Treasury set forth under 31 C.F.R., Subtitle B, Chapter V, as amended, or any orders or licenses issued thereunder (collectively, "**Targeted Sanctions**"); (ii) located, organized or resident, or doing business, in a country or territory that is the subject of sanctions (which, as of the date of this Agreement, includes Crimea, Cuba, Iran, North Korea and Syria) (collectively, "**Territorial Sanctions**"); or (iii) a party of concern identified on one or more of the Denied Persons List, Entity List, Unverified List or Consolidated Screening List, each as published and maintained by the Bureau of Industry and Security of the U.S. Department of Commerce ("**BIS**"). Since January 1, 2015, Seller and each of the Seller Entities has been in material compliance with all applicable Targeted Sanctions, Territorial Sanctions and the export control laws administered and enforced by BIS or, if applicable, the U.S. Department of State's Directorate of Defense Trade Controls in connection with conducting the Business.

Section 3.10 Transferred Contracts Seller has delivered to, or made available to, Buyer correct and complete copies of each written Transferred Contract, including each amendment thereto and a reasonably detailed written description of each oral Transferred Contract. Each of the Transferred Contracts is valid, binding and enforceable on Seller or the applicable Seller Entity, as the case may be, and, to the Knowledge of Seller, each other party thereto, subject to the Bankruptcy and Equity Exception, and is in full force and effect. There is no violation of, or default under, any such Transferred Contract by Seller or any of the Seller Entities, and no event has occurred that, with the lapse of time or the giving of notice or both, would constitute a default thereunder by Seller or any of the Seller Entities or would permit or cause the termination, non-renewal or modification thereof or acceleration or creation of any right or obligation thereunder. To the Knowledge of Seller, no counterparty to any Transferred Contract is in violation of or default under any such Transferred Contract, and no event has occurred that, with the lapse of time or the giving of notice or both, would constitute a default thereunder by any counterparty thereto.

Section 3.11 Title; Sufficiency of Assets.

(a) Seller and the Seller Entities have, and at the Closing, Seller and each Seller Entity will Transfer to Buyer, good title to, or a valid leasehold interest in, the personal property included in the Transferred Assets, in each case free and clear of all Encumbrances, other than Permitted Encumbrances. No Person other than Seller or a Seller Entity owns, leases or operates any of the Transferred Assets. The personal property included in the Transferred Assets is in good working order (ordinary wear and tear excepted), is free from any material defect and has been maintained in all material respects in accordance with generally accepted industry standards.

(b) Except for the Excluded Assets, the Transferred Assets, when taken together with the Ting Marks and the Seller Services, constitute all the assets, properties and rights of Seller and the Seller Entities necessary to conduct the Business as conducted as of the Closing and, immediately after the Closing, necessary for Buyer to continue to operate and conduct the Business in all material respects as conducted as of the Closing assuming all Consents required in connection with the consummation of the transactions contemplated by the Transaction Documents have been obtained; provided, however, that nothing in this Section 3.11(b) shall be considered a guarantee of or representation regarding the performance of the Seller Services.

Section 3.12 Solvency. Seller and the Seller Entities, on both an individual and collective basis, (a) are currently Solvent and (b) will be Solvent immediately after giving effect to the Closing. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Seller or its Subsidiaries.

Section 3.13 Taxes.

(a) All material Tax Returns required to be filed by Seller and each Seller Entity with respect to the Business or the Transferred Assets have been duly and timely filed (taking into account applicable extensions), and all such Tax Returns are true, correct and complete in all material respects.

(b) Seller and each Seller Entity has timely paid (or caused to be paid) all Taxes that are due and payable, whether or not shown as due on any Tax Returns, in respect of the Business and the Transferred Assets.

(c) All material Taxes required to be withheld and remitted by Seller and each Seller Entity under any applicable law with respect to the Business or the Transferred Assets have been duly and timely withheld and remitted to the proper Tax authority.

(d) There are no material Encumbrances on the Transferred Assets for any failure (or alleged failure) to pay Taxes.

(e) Neither Seller nor any Seller Entity is engaged in any audit, examination or investigation by any Tax authority for which it expects a material assessment. No Tax authority has asserted any material tax assessments, deficiencies or adjustments related to the Transferred Assets or the Business that has not since been resolved and paid in full.

(f) No claim has been made in writing by any Tax authority in a jurisdiction where Seller or a Seller Entity does not file Tax Returns that it is or may be subject to taxation with respect to the Business or the Transferred Assets in that jurisdiction, which claim has not been resolved and, if applicable, paid.

(g) No written agreement waiving or extending, or having the effect of waiving or extending, the statute of limitations or the period of assessment or collection of any material Taxes, in each case, is currently in effect with respect to the Business or the Transferred Assets.

Section 3.14 Intellectual Property.

(a) Neither Seller nor any of its Affiliates are bound by any outstanding judgment, injunction, order or decree or any contractual or other obligation materially restricting the use of the Transferred Intellectual Property, or materially restricting the licensing or assignment thereof to any Person. With respect to the Transferred Intellectual Property that is Registered, (i) all such Intellectual Property Rights are subsisting, valid, and in full force and effect and, to the Knowledge of Seller, enforceable; and (ii) Seller or one of its controlled Affiliates is the owner of record and has paid all maintenance fees and made all filings that are required to be made prior to the Effective Date to maintain Seller's, or its applicable Affiliate's, ownership thereof.

(b) Except for the Excluded Assets, the Transferred Intellectual Property, when taken together with the [REDACTED] and Intellectual Property Rights licensed or otherwise used by Seller and its Affiliates to provide Seller Services, in each case pursuant to the Master Services Agreement or Transition Services Agreement, constitute all the Intellectual Property Rights used by Seller and its Affiliates to conduct the Business in all material respects as conducted immediately prior to the Closing. The Transferred Contracts include all Contracts pursuant to which (i) any license or other right is granted under any material Transferred Intellectual Property to any third party, or (ii) any Person has granted any license or other right under Intellectual Property Rights to Seller or any of its Affiliates that is material to the Transferred Intellectual Property.

(c) Seller and its Affiliates exclusively own all right, title and interest in all the Transferred Intellectual Property, free and clear of all Encumbrances, and have all necessary rights to Transfer the Transferred Intellectual Property to Buyer.

(d) The conduct of the Business has not infringed, misappropriated or otherwise violated any Intellectual Property Rights of any third party, except for such infringements, misappropriations or other violations that would not reasonably be expected to be material to the Business. No Actions are pending and no written notices have been received by Seller or any of its Affiliates, in each case, alleging any infringement, misappropriation or other violation by Seller or any of its Affiliates of the Intellectual Property Rights of any third party with respect to the Business. Except as set forth in Section 3.14(d) of the Seller Disclosure Letter, since January 1, 2018, to the Knowledge of Seller, no Person has infringed, misappropriated, or otherwise violated any of the Transferred Intellectual Property, and neither Seller nor any of its Affiliates has made or asserted any claim, demand or notice against any Person alleging any such infringement, misappropriation or other violation, in each case, that would reasonably be expected to be material to the Business. Since January 1, 2018, there has been no litigation, opposition, cancellation, Action or claim pending, asserted or threatened in writing concerning the ownership, or the right to use any Transferred Intellectual Property, or the validity, registrability or enforceability of any Transferred Intellectual Property that is Registered.

(e) Seller and its Affiliates have taken all commercially reasonable measures to protect the confidentiality of all Trade Secrets included in the Transferred Intellectual Property, and such Trade Secrets have not been disclosed by Seller or its Affiliates to any Person except pursuant to written non-disclosure agreements that, to the Knowledge of Seller, have not been breached by such Person.

(f) Each Person (including current and former employees and independent contractors) who has created or developed for or on behalf of Seller or any of its Affiliates any Intellectual Property Rights that would have been part of the Transferred Assets had it been owned by Seller or any of its Affiliates, has signed a valid and enforceable agreement containing an irrevocable present assignment to Seller or one of its Affiliates, as appropriate, of all such Intellectual Property Rights. No such Person retains any right, title or interest in or to any such Intellectual Property Rights.

(g) Neither the execution, delivery or performance of this Agreement, nor the consummation of the transactions contemplated by the Ancillary Agreements, will result in the loss or impairment of any of the Transferred Intellectual Property.

(h) Seller and its Affiliates have at all times (i) complied in all material respects with all Information Privacy and Security Requirements applicable to the Business and (ii) implemented and maintained commercially reasonable administrative, technical and physical safeguards designed to protect Personal Information relating to the Business against unauthorized access, use, loss and damage.

(i) To the Knowledge of Seller, there has been no unauthorized access to, or misuse of, any Personal Information relating to the Business maintained by or on behalf of Seller or any of its Affiliates. No Person (including any Governmental Entity) has made any claim or commenced any Action with respect to any unauthorized access to, or misuse of, any Personal Information relating to the Business maintained by or on behalf of Seller or any of its Affiliates.

Section 3.15 Brokers and Finders. None of Seller, any of the Seller Entities or any of their respective directors or officers, as applicable, has employed any investment banker, broker or finder or incurred or will incur any liability for any brokerage payments, investment banking fees, commissions, finders' fees or other similar payments in connection with the Transaction.

Section 3.16 Distributors and Suppliers.

(a) Section 3.16(a) of the Seller Disclosure Letter sets forth a correct and complete list of the top five (5) largest agents, dealers, resellers or other distributors of the Business for the twelve (12)-month period ended December 31, 2019 based on the dollar value of the amounts paid to such Persons during such period (each, a "**Significant Distributor**"), together with the amount received by such Significant Distributor during such period.

(b) Section 3.16(b) of the Seller Disclosure Letter sets forth a correct and complete list of the following suppliers (each, a "**Significant Supplier**"): (i) the top five (5) largest suppliers of the Business for the twelve (12)-month period ended December 31, 2019 based on the dollar value of goods and services purchased from each supplier during such period, together with the amount paid to such Significant Supplier during such period, and (ii) all suppliers of goods and services which are the sole source for the Business and have a purchase amount of such goods and services greater than $75,000 during such period (each, a "**Sole Source Supplier**").

(c) Since January 1, 2019, no Significant Distributor, Significant Supplier, Sole Source Supplier or other material supplier, vendor, collaborator, distributor or licensor of the Business has cancelled or otherwise terminated its relationship with the Business or has materially altered, in a manner adverse to the Business, its relationship with Seller or any Seller Entity. To the Knowledge of Seller, no such Significant Supplier, Significant Distributor, Sole Source Supplier or other material supplier, vendor, collaborator, distributor or licensor has any plan or intention, and has not threatened in writing, to terminate, cancel or otherwise materially modify its relationship with Seller or any Seller Entity. Seller is not involved in any claim, dispute or controversy with any (i) Significant Distributor or any other direct customers of the Business or (ii) Significant Supplier, Sole Source Supplier or any other direct supplier of the Business.

Section 3.17 Subscribers. Section 3.17 of the Seller Disclosure Letter sets forth as of the first Business Day of each month since January 1, 2019: (i) the total number of mobile telephone numbers maintained by Seller or any of the Seller Entities and assigned to an end user of the mobile wireless voice or data services of Seller or any of the Seller Entities who thereby obtains mobile voice or data services ("**Subscribers**"); (ii) the total number of Subscribers that are assigned to each mobile network operator network utilized by Seller or any of the Seller Entities; (iii) the total number of Subscribers that were deactivated since the first Business Day of the immediately preceding month; (iv) the average data usage per Subscriber since the first Business Day of the immediately preceding month; (v) the average revenue recognized by Seller or any of the Seller Entities for each Subscriber since the first Business Day of the immediately preceding month; and (vi) the average acquisition and retention expenditures of Seller or any of the Seller Entities for each new Subscriber since the first Business Day of the immediately preceding month.

Section 3.18 Material Commingled Contracts. Section 3.18 of the Seller Disclosure Letter sets forth all Material Commingled Contracts as of the Effective Date.

Section 3.19 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article III, as qualified by the Seller Disclosure Letter, none of Seller, any of the Seller Entities or any other Person has made or makes any other express or implied representation or warranty, including with respect to the Business, the Transferred Assets, the Transaction or any other transaction contemplated by the Transaction Documents or with respect to the accuracy or completeness of any other information provided, made available or communicated (orally or in writing) to Buyer, any of its Subsidiaries or their respective Affiliates or representatives. Except for the representations and warranties expressly set forth in this Article III, as qualified by the Seller Disclosure Letter, Seller and the Seller Entities hereby disclaim all liability and responsibility for any representation, warranty, projection, forecast, statement or other information provided, made available or communicated (orally or in writing) to Buyer, any of its Subsidiaries or their respective Affiliates or representatives, whether made available, communicated or furnished by Seller, any of the Seller Entities, any of their respective Affiliates or any other Person.

## ARTICLE IV

## REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

Section 4.1 Organization, Good Standing and Qualification. Buyer (a) is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (b) has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and (c) is qualified to do business and is in good standing as a foreign legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so qualified or in good standing would not reasonably be expected to materially delay or impair the ability of Buyer to consummate the Transaction or the other transactions contemplated by this Agreement.

Section 4.2 Authority; Approval. Buyer and each Buyer Ancillary Counterparty has full corporate or other organizational power and authority to execute and deliver each of the Transaction Documents to which it is or will be a party, to perform its obligations thereunder and to consummate the Transaction. The execution, delivery and performance of this Agreement by Buyer has been duly and validly authorized by all necessary corporate action on the part of Buyer. The execution, delivery and performance of each of the Ancillary Agreements to which Buyer or any Buyer Ancillary Counterparty is or will be a party has been duly and validly authorized by all necessary corporate or other action on the part of such Person. This Agreement and each of the Ancillary Agreements has been duly executed and delivered by Buyer and each Buyer Ancillary Counterparty party thereto and constitutes a valid and binding agreement of Buyer enforceable against Buyer and each Buyer Ancillary Counterparty pursuant to its terms, subject to the Bankruptcy and Equity Exception.

Section 4.3 Governmental Filings; No Violations.

(a) No notices, reports or other filings are required to be made by Buyer with, nor are any Permits required to be obtained by Buyer from, any Governmental Entity in connection with the execution, delivery and performance of the Transaction Documents by Buyer and the consummation of the Transaction, except for such notices, reports, other filings or Permits that the failure to make or obtain would not prevent, materially delay or materially impair the consummation of the Transaction.

(b) The execution, delivery and performance of the Transaction Documents by Buyer do not, and the consummation of the transactions contemplated hereby and thereby will not, conflict with or result in any violation of or default (with or without notice, lapse of time, or both) under, or give rise to a right of termination, loss of rights, adverse modification of provisions, cancellation or acceleration of any obligation under, (i) Buyer's organizational documents, (ii) any Contract binding upon Buyer or (iii) any Law to which Buyer is subject, other than in the case of clause (ii), conflicts, violations or defaults of such Contracts that would not reasonably be expected to materially delay or impair the ability of Buyer to consummate the Transaction or the other transactions contemplated by this Agreement.

Section 4.4 Available Funds. Buyer has available funds sufficient to enable it to consummate the Transaction and satisfy all of its obligations under this Agreement when required to do so pursuant to the terms hereof.

Section 4.5 Brokers and Finders. Neither Buyer nor any of its Subsidiaries, nor any of their respective directors or employees (including any officers), has employed any broker, finder or investment bank or has incurred or will incur any obligation or liability for any brokerage fees, commissions or finders fees in connection with the transactions contemplated by this Agreement.

Section 4.6 Solvency. Immediately after giving effect to the Transaction, Buyer will be Solvent. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Buyer, its Subsidiaries or any of their respective Affiliates.

Section 4.7 Litigation. As of the Effective Date, there are no Actions pending or, to the Knowledge of Buyer, threatened against Buyer seeking to prevent or challenge the Transaction or any other transaction contemplated by this Agreement.

Section 4.8 Non-Reliance. Buyer acknowledges and agrees that (a) Buyer, its Subsidiaries and their respective Affiliates have been given the opportunity to investigate and have undertaken their own independent investigation to the full extent deemed necessary and desirable by Buyer to enable it to make a decision with respect to the execution and delivery of this Agreement and the performance of its obligations hereunder and (b) in making its decision to enter into this Agreement and to consummate the Transaction, Buyer is not relying on any representation, warranty, agreement, statement, document, record, report, projection, material or information made or provided by Seller, any of the Seller Entities or any of their respective Affiliates or representatives except for the representations and warranties expressly set forth in Article III of this Agreement, as qualified by the Seller Disclosure Letter. Buyer further acknowledges and agrees that the representations and warranties expressly set forth in Article III of this Agreement, as qualified by the Seller Disclosure Letter, constitute the sole and exclusive representations, warranties and statements (including by omission) of any kind or nature, whether written or oral, expressed or implied, statutory or otherwise (including, for the avoidance of doubt, relating to quality, quantity, condition, merchantability, fitness for a particular purpose or conformity to samples), of Seller or any of the Seller Entities as to any matter concerning the Business, the Transferred Assets, the Transaction or any other transaction contemplated by the Transaction Documents.

ARTICLE V

COVENANTS

Section 5.1 Access and Information. Subject to applicable Law, and to the extent reasonably required for tax, accounting, regulatory, compliance, litigation or solely for investigation purposes, or otherwise reasonably requested by any of the Parties (other than in connection with a dispute, claim or litigation between Buyer or any Affiliates of Buyer and Seller or any Seller Entity):

(a) Buyer shall and shall cause its Subsidiaries to (i) retain all books, ledgers, files, reports, plans, operating records and any other material documents in existence at the Closing (collectively, the "**Records**") pertaining to Seller and its Affiliates for a period of five (5) years from the Effective Date and (ii) provide Seller, at Seller's expense, with reasonable access without hindering the normal operations of Buyer and its Subsidiaries (solely for the purpose of inspection and copying), during normal business hours, and upon reasonable advance notice and under the supervision of Buyer's or its Subsidiaries' personnel, to such Records with respect to periods or occurrences prior to the Effective Date, in each case for Seller's preparation of financial statements, taxes, reporting obligations, compliance with Laws and other reasonable purposes. Notwithstanding anything to the contrary set forth in the foregoing provisions of this Section 5.1(a), Buyer and its Subsidiaries may withhold access, documents or information that in the reasonable judgment of Buyer would result in the disclosure of any Trade Secrets of third parties or violate any of its obligations with respect to confidentiality.

(b) Seller shall and shall cause its Subsidiaries to (i) retain all Records pertaining to Buyer and its Affiliates for a period of five (5) years from the Effective Date and (ii) provide Buyer, at Buyer's expense, with reasonable access without hindering the normal operations of Seller and its Subsidiaries (solely for the purpose of inspection and copying), during normal business hours, and upon reasonable advance notice and under the supervision of Seller's or its Subsidiaries' personnel, to such Records with respect to periods or occurrences prior to the Effective Date, in each case for Buyer's preparation of financial statements, taxes, reporting obligations, compliance with Laws and other reasonable purposes. Notwithstanding anything to the contrary set forth in the foregoing provisions of this Section 5.1(b), Seller and its Subsidiaries may withhold access, documents or information that in the reasonable judgment of Seller would result in the disclosure of any Trade Secrets of third parties or violate any of its obligations with respect to confidentiality.

Section 5.2 Tax Matters.

(a) Seller and Buyer shall, solely with respect to the Businesses and the Transferred Assets, at the other Party's expense, (i) each provide the other with such assistance as may reasonably be requested by either of them in connection with the preparation of any Tax Return, or the defense of any audit or other examination by any Tax authority or any judicial or administrative Action with respect to Taxes, and (ii) each retain and provide the other with any records or other information which the other may reasonably request that are relevant to such Tax Return, audit, examination or Action.

(b) In the case of any taxable period that begins on or before the Effective Date and ends thereafter (each, a "**Straddle Period**"), any real property, personal property, improvement, assessment, special assessment, ad valorem and similar Taxes with respect to the Business or the Transferred Assets for such Straddle Period shall be allocated to the portion of such Straddle Period ending on the Effective Date (and therefore shall be an Excluded Liability) in an amount equal to the total amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of the Straddle Period ending on (and including) the Effective Date and the denominator of which is the number of days in the entire Straddle Period.

(c) All transfer, documentary, sales, use, registration, value-added and other similar Taxes (including any penalties, interest and additions to Tax) incurred in connection with this Agreement, the Ancillary Agreements, the Transaction or the other transactions contemplated hereby and thereby (collectively, "**Transfer Taxes**") shall be borne and timely paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller or the relevant Seller Entity. Each Party shall use commercially reasonable efforts to cooperate upon request as reasonably necessary to minimize the amount of any such Transfer Taxes.

(d) The amount of any Tax refunds or credits that are received by Buyer with respect to the Business, the Transferred Assets or the Assumed Liabilities that are attributable to any Tax period (or portion thereof) ending on or prior to the Closing ("**Pre-Closing Tax Refunds**") shall be for the account of Seller, and Buyer shall cause to be paid over to Seller any such Pre-Closing Tax Refund (regardless of whether Buyer receives such Pre-Closing Tax Refund in the form of cash or as a credit), and any interest received thereon, within five (5) days after receipt thereof. Buyer shall use commercially reasonable efforts to claim or cause to be claimed or utilize or cause to be utilized any such Pre-Closing Tax Refund and to furnish Seller all information, records and assistance necessary to verify the amount of the Pre-Closing Tax Refunds. Buyer shall, if Seller so requests, cause the relevant entity (Buyer, any of its Affiliates or any successors thereof) to timely file for and use commercially reasonable efforts to obtain any such Pre-Closing Tax Refunds.

(e) Except as otherwise required by applicable Law or without the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed), Buyer shall not take any of the following actions (or cause or permit any Affiliate to take any of the following actions) relating to the Transferred Assets (i) amend any Tax Return for any Tax period ending prior to or on the Closing, (ii) file a Tax Return with respect to any Tax period on or before the Effective Date (a "Pre-Closing Tax Period"), in any jurisdiction in which Tax Returns were not filed prior to the Closing, (iii) extend or waive, or cause to be extended or waived any statute of limitations or other period for the assessment of any Tax or deficiency related to a Pre-Closing Tax Period, (iv) make or change any material Tax election or accounting method or practice that has retroactive effect to any Pre-Closing Tax Period, or (v) initiate any voluntary disclosure or other communication with any Taxing Authority (with respect to a Pre-Closing Tax Period) relating to any actual or potential Tax payment or Tax Return filing obligation.

Section 5.3 Insurance.

(a) Seller shall, and shall cause its Affiliates to, assign to Buyer all proceeds under any of Seller's or any of its Affiliates' third-party insurance policies written prior to the Closing in connection with (i) the damage or destruction prior to the Effective Date of any of the Transferred Assets, or (ii) any Assumed Liability (other than, in the case of this clause (ii), where insurance proceeds are directly or indirectly funded by Seller or any Seller Entity through self-insurance or other similar arrangement). Seller agrees to use its reasonable efforts to obtain any necessary Consents or approvals of any insurance company or other third party relating to any such assignment. If such proceeds are not assignable, Seller agrees to pay any such proceeds received by it or any of its Affiliates to Buyer promptly upon the receipt thereof.

(b) Except as set forth in Section 5.3(a), from and after the Closing, the Business, the Transferred Assets and the Assumed Liabilities shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insurance programs or other similar arrangements, and Buyer (i) agrees to arrange for its own insurance policies (including self-insurance or similar arrangements funded directly or indirectly by Buyer or any of its Affiliates) with respect to the Business, the Transferred Assets and the Assumed Liabilities covering all periods from and after the Closing and (ii) without prejudice to any right to indemnification under this Agreement or any other Ancillary Agreement, agrees not to seek, through any means, to benefit from any of Seller's or its Affiliates' insurance policies which may provide coverage for claims relating in any way to the Business. Seller may, effective at or after the Closing, amend any insurance policies and ancillary arrangements in the manner it deems appropriate to give effect to this Section 5.3. This Agreement shall not be considered an attempted assignment of any policy of insurance or as a Contract of insurance and shall not be construed to waive any right or remedy of Seller in respect of any insurance policy or any other Contract or policy of insurance.

Section 5.4 Non-Competition.

(a) Nothing in this Agreement shall be deemed to prohibit, prevent or in any way hinder or otherwise adversely affect Seller's or any Seller Entity's ability to market and provide high bandwidth Internet access services (including fiber or 5G access points) to residences and places of business and domain name-related services, including using and displaying the Ting Marks in accordance with Section 5.8. Except as set forth in the Transition Services Agreement or the Master Services Agreement, Seller agrees that for the period commencing on the Effective Date and expiring on the fifth (5th) anniversary of the Effective Date, neither it nor any of its Affiliates shall, either directly or indirectly, alone or with others, (i) engage in, continue in, carry on, control, operate, manage or have any ownership or financial interest in any mobile wireless service provider in the U.S., (ii) other than any Additional Customer Accounts, add any additional mobile phone customers in the U.S. or (iii) induce or attempt to induce any subscriber, customer, supplier or other business relationship of the Business to cease or limit doing business with Buyer or any of Buyer's Affiliates; provided, that nothing in this Section 5.4(a) shall preclude Seller or any Seller Entity from (A) using and displaying the Ting Marks in accordance with Section 5.8; (B) exercising its rights or performing or complying with its obligations under or as contemplated by this Agreement or any of the Ancillary Agreements, [REDACTED]; (D) operating, controlling, managing, providing services as, or having any ownership or financial interest in, a mobile virtual network enabler; or (E) purchasing or owning less than five percent (5%) of the publicly traded securities of any company; provided further, (y) Seller and its Affiliates may not target any current or former subscriber or customer of any service provided by Buyer or its Affiliates or induce such subscribers or customers to switch from any services provided by Buyer or its Affiliates to any other provider of similar services, including Seller or its Affiliates; and (z) with respect to Seller's efforts in clauses (B) and (C) of this Section 5.4(a), Seller and its Affiliates may only market, advertise or sell any services, or communicate with potential customers in the zip codes that are set forth on Schedule 5.4, which schedule shall be updated by the good faith agreement of the Parties on a monthly basis to reflect the geographic areas not covered by a network owned or accessed by Buyer or its Affiliates. For clarity, a geographic area accessed by Buyer or its Affiliates does not include an area in which the underlying carrier provides access via roaming agreements with third parties.

(b) The Parties acknowledge that the restrictions set forth in this Section 5.4 are reasonable in scope and duration. The Parties further acknowledge that the restrictions set forth in this Section 5.4 are necessary to protect Buyer's significant investment in the Business, including its goodwill, and that Buyer would not enter into this Agreement without the restrictions contained in this Section 5.4. It is the desire and intent of the Parties that the provisions of this Section 5.4 be enforced to the fullest extent permissible under applicable Law. Therefore, the Parties agree that money damages would not be a sufficient remedy for any threatened or actual breach of Section 5.4(a) by Seller, and that, in addition to all other remedies it may be entitled to, Buyer will be entitled to seek specific performance, injunctive and other equitable relief as a remedy for any such breach. If any covenant in this Section 5.4 is found to be invalid, void or unenforceable in any jurisdiction by a final determination of a Governmental Entity of competent jurisdiction, the Parties agree that: (i) such determination will not affect the validity or enforceability of (A) the offending term or provision in any other jurisdiction or (B) the remaining terms and provisions of this Section 5.4 in any jurisdiction; (ii) the offending term or provision will be reformed rather than voided and the Governmental Entity making such determination will have the power to reduce the scope, duration or geographical area of any invalid or unenforceable term or provision, to delete specific words or phrases or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable provision, in order to render the restrictive covenants set forth in this Section 5.4 enforceable to the fullest extent permitted by applicable Law; and (iii) the restrictive covenants set forth in this Section 5.4 will be enforceable as so modified.

Section 5.5 Further Assurances. Subject to the terms and conditions of this Agreement, from time to time after the Effective Date, each Party agrees to use commercially reasonable efforts to promptly execute, acknowledge and deliver, and to cause its Affiliates to promptly execute, acknowledge and deliver, any assurances, documents or instruments of transfer, conveyance, assignment and assumption reasonably requested by the other Party and necessary for the requesting Party to satisfy its obligations hereunder or to obtain the benefits of the transactions contemplated hereby at the requesting Party's expense.

Section 5.6 Confidentiality.

(a) Effective upon the Closing, the Confidentiality Agreement shall terminate and be of no further force and effect.

(b) Seller shall treat as confidential, shall not disclose to any other Person and shall safeguard any information relating to the Business by using the same degree of care, but no less than a reasonable standard of care, to prevent the unauthorized use, dissemination or disclosure of such information as Seller or its Affiliates used with respect thereto prior to the execution of this Agreement.

(c) Buyer shall treat as confidential, shall not disclose to any other Person and shall safeguard any information to the extent exclusively relating to Seller and its Affiliates (other than any such information related to the Business) that becomes known to Buyer as a result of the transactions contemplated by this Agreement, except as otherwise agreed to by Seller in writing; provided, however, that nothing in this Section 5.6 shall prevent the disclosure of any such information, knowledge or data to any directors, officers or employees of Buyer to whom such disclosure is necessary in the conduct of the Business if such Persons are informed by Buyer of the confidential nature of such information and are required by Buyer to comply with the provisions of this Section 5.6.

(d) Buyer and Seller acknowledge that the confidentiality obligations set forth herein shall not extend to information, knowledge and data that (i) is or becomes generally available to the public other than as a result of a breach of the terms of the Confidentiality Agreement or this Section 5.6 by the Party owing a duty of confidentiality or its representatives, (ii) is or has previously been disclosed to the Party owing a duty of confidentiality on a non-confidential basis by a third party, provided, that such third party was not breaching an obligation of confidentiality to the other Party that was known or should have been known by the Party owing a duty of confidentiality after reasonable inquiry, (iii) was independently developed by the Party owing a duty of confidentiality without violating any of its obligations under the Confidentiality Agreement or this Section 5.6, or (iv) is required to be disclosed to comply with applicable Law; provided, that the requirement to make the disclosure does not arise from a breach by the Party owing a duty of confidentiality or its representatives and, in the event that any demand or request for disclosure of such information is made pursuant to clause (iv), the Party owing a duty of confidentiality, to the extent practically and legally permissible, shall notify the other Party of its intention to make such disclosure and provide a list of the information it intends to disclose prior to making such disclosure and shall cooperate with the other Party so the other Party may seek, at its sole cost and expense, an appropriate protective order or other remedy. In the event that such appropriate protective order or other remedy is not obtained, the Party owing a duty of confidentiality shall disclose only that portion of such information which it is advised by its outside counsel is required by applicable Law to be disclosed and shall use its reasonable best efforts to obtain an order or other reasonable assurance that confidential treatment will be accorded to such information.

(e) Each Party agrees that money damages would not be a sufficient remedy for any breach of this Section 5.6 by the other Party, and that, in addition to all other remedies it may be entitled to, each Party will be entitled to seek specific performance, injunctive and other equitable relief as a remedy for any such breach (in each case, without the requirement of posting a bond or other security or proving damages). Each Party agrees that it will not, and will cause its representatives not to, oppose the granting of such relief on the basis that the other Party has an adequate remedy at law.

Section 5.7 Publicity. Buyer and Seller each shall consult with each other, provide each other with a reasonable opportunity to review and give due consideration to reasonable comments made by each other prior to issuing any press releases or otherwise making public announcements with respect to the Transaction or any other transaction contemplated by the Transaction Documents and prior to making any filings with any third party and/or any Governmental Entity (including any national securities exchange or interdealer quotation service) with respect thereto, except as may be required by Law or by obligations pursuant to any listing agreement with, or rules of, any national securities exchange or interdealer quotation service or by the request of any Governmental Entity. Notwithstanding anything to the contrary herein, neither Party shall disclose any information regarding the Transaction, except as provided in Section 5.6 or this Section 5.7.

Section 5.8 Intellectual Property Matters.

(a) As of the Effective Date, Seller, on behalf of itself and its Affiliates, hereby grants Buyer and its Affiliates a co-exclusive (with Seller having those rights described below) worldwide, royalty-free, fully paid-up, irrevocable, transferable (in connection with a sale of all or substantially all of the Transferred Assets), sublicensable (solely in connection with the operation of the Business) license to use and display the Ting Marks in connection with the Business (including as it may evolve after the Closing) [REDACTED]; provided, that, subject to Section 5.4(a), Seller and its Affiliates may use and display the Ting Marks solely (i) [REDACTED], (ii) in Seller's and its Affiliates' business of selling fixed high-speed Internet access, which is primarily focused on the provision of gigabit Internet services to consumer and business customers (as such business exists as of the Closing and natural evolutions thereof), and (iii) as permissible as nominative or descriptive fair use under applicable Trademark Laws. [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

(e) [REDACTED] , Seller shall not, and shall ensure that its Affiliates do not, (i) grant or otherwise convey, or authorize the grant or other conveyance of, or otherwise commit to grant or otherwise convey, any new (A) Encumbrance, other than Permitted Encumbrances, (B) licenses, sublicenses, covenants not to sue or assert, covenants to delay suit, commitments to license, rights to renew or extend any license or covenant (including all options, rights of first refusal, matching rights and any other similar rights), or releases (including releases for prior, current or future infringement), other than non-exclusive licenses in the Ordinary Course of Business, (C) other commitments, covenants, immunities, forbearance from suit, obligations to delay or limit suit or remedy, releases or other similar rights or encumbrances of any kind, and (D) options, rights or obligations, including any rights or obligations to negotiate with respect to grant of any license or covenant not to sue or assert, in each case, with respect to the Ting Marks Assets, or (ii) sell, offer to sell, transfer, lease, assign, pledge, or otherwise dispose of any of the Ting Marks Assets (other than to Buyer pursuant to Section 5.8(f)).

(f) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(iii) [REDACTED]

(iv) [REDACTED]

(v) [REDACTED]

(vi) [REDACTED].

(g) [REDACTED]

(h) On and after the Effective Date, Seller will, and will cause its Affiliates to, promptly, and without further consideration, file any and all instruments and documents, and do all other acts necessary or reasonably requested by Buyer to evidence, effect or record the license of the Ting Marks granted to Buyer and its Affiliates pursuant to Section 5.8(a)[REDACTED] .

(i) Seller acknowledges that Buyer may transition the Ting Front-End Technology to the Buyer Front-End Technology following the Effective Date. Seller, on behalf of itself and its Affiliates, hereby grants Buyer and its Affiliates a non-exclusive, worldwide, royalty-free, fully paid-up, irrevocable, perpetual, transferable (solely in connection with a sale of all or substantially all of the Transferred Assets), sublicensable (solely to Affiliates or in connection with the operation of the Business) license to use, copy and make derivative works of (A) the Ting API, including any modifications or improvements made by or on behalf of Seller or its Affiliates, and (B) content, graphics, design elements and look and feel, of (1) that part of the ting.com website that relates to the Business and (2) the mobile applications related to the Business, in each case (with respect to Section 5.8(i)(A) – (B)) solely to the extent owned by Seller or any Seller Entity and solely to be used in the businesses of Buyer and its Affiliates. For clarity, the foregoing license does not include any Software and is given "AS IS," without representations or warranties of any kind. For clarity, the license granted pursuant to this Section 5.8(i) includes the right of Buyer to replicate any HTML that is part of the ting.com website that relates to the Business but Seller shall not be required to provide any such HTML to Buyer. At Buyer's reasonable request, Seller and its Affiliates shall provide to Buyer static images of any materials licensed pursuant to the foregoing license, and provide commercially reasonable cooperation in good faith with Buyer and its Affiliates to facilitate the transition from the Ting Front-End Technology to the Buyer Front-End Technology.

(j) Seller, on behalf of itself and its Affiliates, hereby grants Buyer and its Affiliates a non-exclusive, worldwide, royalty-free, fully paid-up, irrevocable, perpetual, transferable (solely in connection with a sale of all or substantially all of the Transferred Assets), sublicensable (solely to Affiliates or in connection with the operation of the Business) license to use, copy, make derivative works of, and otherwise exploit copyrights, trade secrets, functionality and the look and feel of the customer account management functionality and associated interface (including "pay as you go" features) provided by Seller and its Affiliates, in each case, solely to service those customers of the Business that are using such customer account management functionality and associated interface. The license in this Section 5.8(j) does not include any license to Software.

(k) Seller, on behalf of itself and its Affiliates, hereby agrees: (i) not to enter into any settlement or compromise of any claim, action, suit or proceeding relating to the Patent Assertions that imposes on Buyer or any of its Affiliates any obligation or liability without the prior written consent of Buyer; and (ii) to ensure that Buyer and its Affiliates will be licensees under any license agreement entered into in connection with resolution of the Patent Assertions, with all of the same rights and privileges as Seller at no additional cost or expense to Buyer, in the case of clause (ii) solely with respect to the customer and subscriber accounts acquired by Seller pursuant to this Agreement and Additional Customer Accounts.

(l) The Parties acknowledge and agree there is no right of setoff regarding the payments to be made by Buyer pursuant to Section 5.8, and Buyer may not withhold any such amounts from Seller in the event there is a dispute regarding any other issue under this Agreement or any Ancillary Agreement.

Section 5.9 Payments to and from Third Parties.

(a) Seller shall, or shall cause its applicable Affiliate to, (i) promptly pay or deliver to Buyer (or Buyer's designated Affiliate) any monies or checks relating to the Transferred Assets or Assumed Liabilities that have been delivered to Seller or any Seller Entity after the Closing, including any monies or checks sent by customers, suppliers or other contracting parties of the Business, and (ii) promptly reimburse Buyer (or its designated Affiliates) for any amounts paid by Buyer (or its designated Affiliates) to the extent such payments are for or in respect of any Excluded Asset or Excluded Liability.

(b) Buyer shall, or shall cause its applicable Affiliate to, (i) promptly pay or deliver to Seller (or its designated Affiliates) any monies or checks that have been sent to Buyer or any of its Affiliates after the Closing to the extent they are in respect of an Excluded Asset or Excluded Liability or arise from the operation, ownership or conduct of the Business or the Transferred Assets prior to the Effective Date and (ii) promptly reimburse Seller (or its designated Affiliates) for any amounts paid by Seller to the extent such payments are, or are in respect of, any Transferred Asset or an Assumed Liability.

(c) The Parties acknowledge and agree there is no right of setoff regarding such payments and a Party may not withhold funds received from third parties for the account of the other Party in the event there is a dispute regarding any other issue under this Agreement or any Ancillary Agreement.

Section 5.10 Wrong Pockets.

(a) If at any time within twenty-four (24) months after the Closing, either Party discovers that any Transferred Asset is held by Seller or any Seller Entity or that any Assumed Liability has not been assumed by Buyer or any of its Affiliates, each of Seller, Buyer and their respective Affiliates will promptly transfer such Transferred Asset to Buyer or its designated Affiliate or cause such Assumed Liability to be assumed by Buyer or its designated Affiliate, in each case for no additional consideration and at Seller's expense; provided, that none of Buyer, Seller or any of their respective Affiliates shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party in consideration therewith.

(b) If at any time within twenty-four (24) months after the Closing, either Party discovers that any Excluded Asset is held by Buyer or any of its Affiliates or that any Excluded Liability has been erroneously assumed by Buyer or any of its Affiliates, each of Seller, Buyer and their respective Affiliates will promptly transfer such Excluded Asset to Seller or its designated Affiliate or cause such Excluded Liability to be assumed by Seller or its designated Affiliate, in each case for no additional consideration and at Buyer's expense; provided, that none of Buyer, Seller or any of their respective Affiliates shall be required to commence any litigation or offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party in consideration therewith.

Section 5.11 Mail and Other Communications. Following the Closing, Seller and its Affiliates may receive mail, packages and other communications (including electronic communications) properly belonging to Buyer and its Affiliates. Accordingly, at all times following the Closing, (i) Buyer authorizes Seller and its Affiliates to receive and open all mail, packages and other communications received by it and not clearly intended for Buyer or its Affiliates or any of Buyer's or its Affiliates' officers or directors, and to retain the same to the extent that they are not related to the Transferred Assets or the Assumed Liabilities and (ii) to the extent such mail, packages and other communications are related to the Transferred Assets or the Assumed Liabilities, Seller shall promptly after becoming aware thereof refer, forward or otherwise deliver such mail, packages or other communications to Buyer (or, in case the same relate to both the Transferred Assets or the Assumed Liabilities and any retained businesses or operations of Seller or any Seller Entity, Excluded Assets or Excluded Liabilities, copies thereof). The provisions of this Section 5.11 are not intended to, and shall not be deemed to, constitute an authorization by Buyer or its Affiliates to permit Seller or any Seller Entity to accept service of process on its behalf, and Seller is not and shall not be deemed to be the agent of Buyer for service of process purposes.

Section 5.12 Commingled Contracts. For a period of twelve (12) months after the Closing, each of Seller and Buyer shall, and shall cause each of their respective Affiliates to, use its reasonable best efforts to (i) cause the counterparties to any Commingled Contracts to enter into new Contracts with Buyer or its designated Affiliate, on terms no less favorable than the terms provided to Seller and its Affiliates pursuant to the applicable Commingled Contract prior to the Closing in order for Buyer or its designated Affiliate to receive the benefits of such Commingled Contract (each such new Contract, a "**New Contract**") or (ii) if practicable, assign to Buyer or its designated Affiliate the benefits and obligations under such Commingled Contract as they relate to the Transferred Assets or the Assumed Liabilities. During the period ending on the earlier of (i) the date that is twelve (12) months following the Closing and (ii) such time as a New Contract is executed or such benefits and obligations under such Commingled Contract are assigned to Buyer or its designee, Seller and Buyer shall use and cause their respective Affiliates to use their reasonable best efforts to secure an alternative arrangement reasonably satisfactory to both Parties under which Buyer or its designated Affiliates would, in compliance with applicable Law, obtain the benefits associated with the applicable Commingled Contract. For the avoidance of doubt, in no event shall Seller or Buyer or any of their respective Affiliates be required to pay any additional consideration in connection with compliance with its obligations under this Section 5.12, or to commence, defend or participate in any litigation in connection therewith or to offer or grant any accommodation (financial or otherwise) to any third party in connection therewith.

Section 5.13 Post-Closing Covenants. From and after the Closing, each of Seller and Buyer shall use commercially reasonable efforts to: [REDACTED] .

Section 5.14 Cooperation and Filing Fees. Seller and Buyer shall cooperate with each other and shall furnish to the other party all information necessary or desirable in connection with: (a) making any filing under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act"), if necessary; (b) making any application or other filing to be made pursuant to any competition Law; and (c) resolving any investigation or other inquiry by any Governmental Entity under any competition Laws with respect to the transactions contemplated by this Agreement. In the event an HSR Act is required to be made, Buyer agrees it will be solely responsible for paying the filing fee related thereto and will also reimburse Seller for its reasonable outside counsel fees related to preparing the initial HSR Act filing, up to a maximum of $20,000. Each of the parties shall promptly inform the other party of any communication with, and any proposed understanding, undertaking or agreement with, any Governmental Entity regarding any such filings or any such transaction. Neither Seller nor Buyer shall participate in any meeting with any Governmental Entity in respect of any such filings, investigation or other inquiry without giving the other party prior notice of the meeting. The Parties will consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any Party in connection with all meetings, actions and proceedings under or relating to the HSR Act or other competition Laws (including, with respect to making a particular filing, by providing copies of all such documents to the non-filing party and their advisors prior to filing and, if requested, giving due consideration to all reasonable additions, deletions or changes suggested in connection therewith).

ARTICLE VI

INDEMNIFICATION

Section 6.1 Survival.

(a) Each representation, warranty, covenant and other obligation set forth in this Agreement shall survive the Closing, but only until the applicable survival date specified in this Section 6.1(a), whereupon it shall terminate; provided, that if an indemnification claim with respect thereto shall be made prior to such survival date, then such survival date shall be extended, and such provision shall survive, but only with respect to such claim and only until the Final Determination thereof, whereupon such provision shall terminate. The right of a Person to any remedy pursuant to this Article VI shall not be affected by any investigation or examination conducted, or any Knowledge possessed or acquired (or capable of being possessed or acquired), by such Person at any time concerning any circumstance, action, omission or event relating to the accuracy or performance of any representation, warranty, covenant or obligation set forth in this Agreement. Except in the case of a claim of Fraud, no Person shall be required to show reliance on any representation, warranty, certificate or covenant in order for such Person to be entitled to indemnification, compensation or reimbursement hereunder.

(i) The survival date applicable to the Fundamental Representations shall be the sixth (6th) anniversary of the Effective Date.

(ii) The survival date applicable to representations and warranties set forth in Section 3.13 (*Taxes*) shall be the sixtieth (60th) calendar day following the expiration of the statute of limitations otherwise applicable to claims for breach of the federal and state Laws governing the liabilities, actions and other matters referred to in such representations and warranties, giving effect to any waivers, tolling or extensions thereof.

(iii) The survival date applicable to the representations and warranties set forth in Section 3.12 (*Solvency*) shall be the fourth (4th) anniversary of the Effective Date.

(iv) The survival date applicable to the other representations and warranties set forth in this Agreement shall be the date that is eighteen (18) months from the Effective Date, other than the representations and warranties set forth in Section 3.19 (*No Other Representations or Warranties*) and Section 4.8 (*Non-Reliance*), which shall survive the Closing indefinitely.

(v) The survival date applicable to the covenants and agreements set forth in this Agreement shall be the date on which such covenants and agreements have been fully performed or otherwise satisfied in accordance herewith.

(b) No provision of this Article VI shall apply to or limit any claim of Fraud.

Section 6.2 Indemnification by Seller.

(a) Following the Closing until the applicable survival dates provided in Section 6.1(a) (but subject to the proviso set forth therein), Seller shall indemnify, defend, hold harmless and reimburse Buyer and its Affiliates and their respective successors and permitted assigns, in their capacity as such (collectively, the "**Buyer Indemnified Parties**"), for, from and against all Losses imposed on, incurred or suffered by or asserted against any Buyer Indemnified Party in connection with or arising out of:

(i) the failure of any Seller Representation (other than any Seller Fundamental Representation), as qualified by the Seller Disclosure Letter, to be true and accurate as of the Effective Date (or, in the case of any representation and warranty that expressly speaks as of a different date, such date), it being understood that for purposes of this Section 6.2(a)(i) any qualifications relating to materiality (such as the terms "material" and "Material Adverse Effect") set forth in such Seller Representation shall be disregarded for purposes of determining whether such Seller Representation was not true and accurate as well as the amount of such Losses; provided, however, that any qualifications relating to materiality shall not be disregarded for purposes of determining whether the Seller Representations set forth in Section 3.4(b) and Section 3.5(ix) were not true and accurate;

(ii) the failure of any Seller Fundamental Representation, as qualified by the Seller Disclosure Letter, to be true and accurate as of the Effective Date (or, in the case of any representation and warranty that expressly speaks as of a different date, such date), it being understood that for purposes of this Section 6.2(a)(ii) any qualifications relating to materiality (such as the terms "material" and "Material Adverse Effect") set forth in such Seller Fundamental Representation shall be disregarded for purposes of determining whether such Seller Fundamental Representation was not true and accurate as well as the amount of such Losses;

(iii) the breach or failure of Seller to fully perform any covenant, agreement or obligation of Seller set forth in this Agreement;

(iv) any Excluded Assets;

(v) any Excluded Liabilities; or

(vi) any failure to collect in full any amount of Closing Accounts Receivable.

(b) Seller shall not have any liability pursuant to this Article VI in respect of any Losses of the type described in Section 6.2(a)(i) (i) for any single claim or related series of claims involving less than $[REDACTED]in the aggregate (the "**Per Claim Amount**") and (ii) unless and until the aggregate amount of such Losses exceeds $[REDACTED] (the "**Basket Amount**"), in which event Seller shall be liable for all such Losses, including the Basket Amount.

(c) Notwithstanding any provision to the contrary contained in this Article VI, except for Losses in connection with Taxes that are Excluded Liabilities, the amount of Losses for which Seller shall be liable at any time pursuant to this Article VI in respect of all claims that are not Third-Party Claims shall be limited to the aggregate amount of (i) Monthly Future Payments paid to Seller as of such time, *plus* (ii) [REDACTED], *plus* (iii) the Post-Closing Payment, if any, paid to Seller; provided, that this Section 6.2(c) shall not prevent Buyer from recovering the full amount of such Losses pursuant to Buyer's offset right as set forth in Section 6.6(b).

(d) Notwithstanding any provision to the contrary contained in this Article VI (including, for the avoidance of doubt, Section 6.2(c)), except for Losses in connection with Taxes that are Excluded Liabilities, the maximum amount of aggregate Losses for which Seller shall be liable pursuant to Section 6.2(a)(i) shall be $[REDACTED] (the "**Cap Amount**").

Section 6.3 Indemnification by Buyer.

(a) Following the Closing until the applicable survival dates provided in Section 6.1(a) (but subject to the proviso set forth therein), Buyer shall indemnify, defend, hold harmless and reimburse Seller and Seller's Affiliates and their respective successors and permitted assigns, in their capacity as such (collectively, the "**Seller Indemnified Parties**"), for, from and against all Losses imposed on, incurred, suffered or asserted in connection with or arising out of:

(i) the failure of any Buyer Representation (other than any Buyer Fundamental Representation) to be true and accurate as of the Effective Date (or, in the case of any representation and warranty that expressly speaks as of a different date, such date); it being understood that for purposes of this Section 6.3(a)(i) any qualifications relating to materiality (such as the terms "material" and "Material Adverse Effect") set forth in such Buyer Representation shall be disregarded for purposes of determining whether such Buyer Representation was not true and accurate as well as the amount of such Losses;

(ii) the failure of any Buyer Fundamental Representation to be true and accurate as of the Effective Date (or, in the case of any representation and warranty that expressly speaks as of a different date, such date); it being understood that for purposes of this Section 6.3(a)(ii) any qualifications relating to materiality (such as the terms "material" and "Material Adverse Effect") set forth in such Buyer Fundamental Representation shall be disregarded for purposes of determining whether such Buyer Fundamental Representation was not true and accurate as well as the amount of such Losses;

(iii) the breach or failure of Buyer to fully perform any covenant, agreement or obligation of Buyer set forth in this Agreement; or

(iv) any Assumed Liabilities.

(b) Buyer shall not have any liability pursuant to this Article VI in respect of any Losses of the type described in Section 6.3(a)(i) (i) for any single claim or related series of claims involving less than the Per Claim Amount and (ii) unless and until the aggregate amount of such Losses exceeds the Basket Amount, in which event Buyer shall be liable for all such Losses, including the Basket Amount.

(c) Notwithstanding any provision to the contrary contained in this Article VI (including, for the avoidance of doubt, Section 6.3(b)), the maximum amount of aggregate Losses for which Buyer shall be liable pursuant to Section 6.3(a)(i) shall be the Cap Amount.

Section 6.4 Claim Procedures.

(a) Except as set forth in Section 5.2 with respect to tax claims, in order for a Buyer Indemnified Party or a Seller Indemnified Party (each, an "**Indemnified Party**") to duly make a valid claim with respect to any of the occurrences specified in Section 6.2 or Section 6.3, the Indemnified Party must (promptly following the first date following the Effective Date on which such Indemnified Party has knowledge of facts, matters or circumstances from which it is reasonably apparent that such an occurrence is likely to have occurred) provide written notice to Seller (for claims made by Buyer Indemnified Parties) or to Buyer (for claims made by Seller Indemnified Parties) (the recipient of such notice, the "**Indemnifying Party**"), which notice shall set forth a description in reasonable detail of the occurrence(s) specified in Section 6.2 or Section 6.3 which the Indemnified Party alleges to have occurred, a description of the facts and circumstances giving rise to such occurrences, the estimated amount of Losses imposed, incurred, suffered or asserted in connection therewith or arising therefrom (to the extent then ascertainable), and a description of any other remedy sought in connection therewith, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "**Claim Notice**"); provided, that the failure to timely provide a Claim Notice shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent that such failure has a material prejudicial effect on the Indemnifying Party. The Indemnifying Party shall have thirty (30) days from receipt of a Claim Notice to dispute the claim. During such thirty (30)-day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity of the claim for indemnification. If the Indemnifying Party does not give notice to the Indemnified Party that it disputes such claim within thirty (30) days after its receipt of the notice, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. The Indemnifying Party and the Indemnified Party shall use commercially reasonable efforts to avoid production of confidential information (consistent with applicable Law) to third parties and to cause all communications among employees, counsel and others representing any party to a Third-Party Claim to be made so as to preserve any applicable attorney-client or work product privileges.

(b) In the event the Claim Notice results from any Action asserted or threatened against the Indemnified Party by a third party (a "**Third-Party Claim**"):

(i) The Indemnified Party shall provide the Claim Notice to the Indemnifying Party not later than the tenth (10th) Business Day following the Indemnified Party's receipt of the Third-Party Claim, or, if sooner, not later than the tenth (10th) Business Day preceding the date by which an appearance is required to be made before a court, arbitrator or other tribunal or an answer or similar pleading is required to be filed in a litigation or other proceeding; provided, that if either such Business Day occurs on or prior to the Effective Date, the Claim Notice shall be timely provided if it is provided not later than the Business Day following the Effective Date; and provided, further, that the failure to timely provide a Claim Notice shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent that such failure has a material prejudicial effect on the defenses or other rights available to the Indemnifying Party with respect to such Third-Party Claim.

(ii) During the period ending on the earlier of the thirtieth (30th) calendar day following the Indemnifying Party's receipt of the Claim Notice and the fifth (5th) calendar day preceding the date on which an appearance is required to be made before a court, arbitrator or other tribunal or an answer or similar pleading is required to be filed in a litigation or other proceeding, the Indemnifying Party shall be entitled to notify the Indemnified Party of its election to assume and control the defense of the Third-Party Claim; provided, that, notwithstanding the foregoing, the Indemnifying Party will not be entitled to control, and the Indemnified Party will be entitled to have control over, the defense or settlement of any Third-Party Claim solely to the extent (1) the Third-Party Claim involves a criminal proceeding, action, indictment, allegation or investigation; (2) the Third-Party Claim seeks injunctive relief; (3) the Third-Party Claim could result in suspension or debarment of Buyer by a Governmental Entity; (4) Losses are reasonably expected by Buyer to exceed the Cap Amount (or the unused portion thereof); (5) any insurer requires, as a condition to an Indemnified Party's eligibility to recover insurance proceeds on account of such Third-Party Claim, that such insurer control the matter; (6) the Third-Party Claim involves a Significant Distributor or a Significant Supplier; (7) a court of competent jurisdiction has ruled that the Indemnifying Party is not reasonably, diligently or in good faith conducting a defense of the Third-Party Claim; or (8) the Indemnified Party has been advised in writing by legal counsel that a conflict of interest exists which, under applicable principles of legal ethics, would prohibit a single legal counsel from representing both the Indemnified Party and the Indemnifying Party in such Third-Party Claim.

(A) In the event that the Indemnifying Party is entitled to and duly and timely makes such election, the Indemnifying Party shall defend the Indemnified Party by appropriate proceedings and the Indemnifying Party shall have the sole power (as between the Indemnifying Party and the Indemnified Party and their respective Affiliates) to direct and control such defense and the settlement, arbitration, litigation and appellate strategy relating to the Third-Party Claim. The Indemnified Party shall be entitled but not obligated to participate in any such defense and to employ separate counsel of its choosing for such purpose and the Indemnifying Party shall give due consideration to any reasonable suggestions of the Indemnified Party and its counsel; provided, that the fees and expenses shall be borne by the Indemnified Party and shall not be recoverable from such Indemnifying Party under this Section 6.4; provided, further, that, (x) if, in the reasonable written opinion of counsel to the Indemnified Party, there are specific defenses available to the Indemnified Party that are different from or in addition to those available to the Indemnifying Party, then the reasonable and documented fees and expenses of one external law firm to the Indemnified Party shall be paid pursuant to Section 6.4(b)(iv)(A); and (y) if (i) the Indemnified Party and Indemnifying Party are both named parties to the proceedings and, in the reasonable written opinion of counsel to the Indemnified Party, it would be inappropriate for both parties to be represented by the same counsel due to actual or potential conflicts between them or (ii) the Indemnified Party assumes the defense of a Third-Party Claim after a court of competent jurisdiction has ruled that the Indemnifying Party has failed diligently to defend a Third-Party Claim it has assumed pursuant to the first sentence of this Section 6.4(b)(ii)(A), the Indemnifying Party shall bear the reasonable and documented out-of-pocket costs and expenses of one additional counsel (in addition to, but only to the extent necessary, one local counsel) which shall represent all Indemnified Party claims arising out of the same or similar set of circumstances in connection with such defense. If the Indemnifying Party shall control the defense of any such claim, the Indemnifying Party shall be entitled to settle such claims; provided, that the Indemnifying Party shall not, without the prior written consent of the Indemnified Party (which consent shall not be unreasonably conditioned, withheld or delayed), settle, compromise or offer to settle, compromise or cease to defend such Third-Party Claim if such settlement, compromise or cessation would result in (i) any monetary liability of the Indemnified Party that will not be promptly paid or reimbursed by the Indemnifying Party, (ii) the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any of its Affiliates, (iii) a finding or admission of a violation of Law or a violation of the rights of any Person by the Indemnified Party or any of its Affiliates, (iv) a finding or admission that would have an adverse effect on other claims made or threatened against the Indemnified Party or any of its Affiliates or (v) any non-monetary condition or obligation being imposed on any Indemnified Party or any of its Affiliates.

(B) If the Indemnifying Party (i) is not entitled to or does not duly and timely make such election or (ii) after timely making such election, a court of competent jurisdiction rules that the Indemnifying Party has failed diligently to defend such Third-Party Claim, the Indemnified Party shall be entitled but not obligated to notify the Indemnifying Party of its election to assume and control such defense from the Indemnifying Party, whereupon the Indemnified Party and not the Indemnifying Party shall have the sole power (as between the Indemnified Party and the Indemnifying Party and their respective Affiliates) to direct and control such defense and the settlement, arbitration, litigation and appellate strategy relating to the Third-Party Claim; provided, that the Indemnified Party's right to be indemnified, defended, held harmless and reimbursed in respect of the Third-Party Claim shall not otherwise be affected by such election. Notwithstanding anything to the contrary set forth in the foregoing sentence, the Indemnifying Party shall have no liability with respect to a Third-Party Claim settled or compromised without its prior written consent (which shall not be unreasonably conditioned, withheld or delayed).

(iii) The Indemnified Party and the Indemnifying Party shall cooperate in order to ensure the proper and adequate investigation and defense of all Third-Party Claims, including by providing reasonable access (subject to the provisions of Section 5.6) to each other's relevant business records, documents and employees, for purposes of investigation, document production, testimony and otherwise. The Indemnified Party and the Indemnifying Party shall keep each other fully and promptly informed with respect to the status of all Third-Party Claims and shall deliver to each other copies of all material written notices and documents (including court papers) received by the other that relate to any Third-Party Claims. The Person controlling the defense of a Third-Party Claim shall in good faith allow the Indemnifying Party or Indemnified Party, as the case may be, to make comments to the materials filed or submitted in such defense, and shall consider such comments in good faith.

(iv) All reasonable and documented out-of-pocket legal fees, costs and expenses actually incurred or suffered by the Indemnifying Party and the Indemnified Party in connection with investigating and defending, and cooperating in the investigation and defense of, the Third-Party Claim ("**Third-Party Claim Expenses**") shall be paid as follows:

(A) Any Third-Party Claim Expenses actually incurred or suffered by the Indemnified Party (1) under the circumstances described in clauses (x) and (y) of the second sentence of Section 6.4(b)(ii)(A), or (2) under the circumstances described in Section 6.4(b)(ii)(B), except for any Third-Party Claim Expenses incurred or suffered in connection with a Third-Party Claim settled without the prior written consent of the Indemnifying Party shall constitute Losses for which the Indemnified Party shall be entitled to be reimbursed if the Indemnified Party is determined pursuant to a Final Determination to be entitled to be indemnified, held harmless and reimbursed pursuant to this Article VI in respect of the Third-Party Claim.

(B) Third-Party Claim Expenses not addressed by Section 6.4(b)(iv)(A) shall be paid by the Person by which they were incurred.

Section 6.5 Losses and Recoveries.

(a) Reimbursement. If an Indemnified Party recovers any amount from a third party in respect of a Loss after all or a portion of such Loss has been paid by an Indemnifying Party pursuant to this Article VI, the Indemnified Party shall promptly remit to the Indemnifying Party the excess (if any) of (i) the amount paid by the Indemnifying Party in respect of such Loss, plus the amount received from the third party in respect thereof, *less* (ii) the full amount of the Loss.

(b) No Double Recovery. No Indemnified Party shall be entitled to recover more than once in respect of the same Loss (notwithstanding that such Loss may result from more than one of the occurrences specified in Section 6.2 or Section 6.3, as the case may be).

(c) No Circular Recovery. Seller shall not have any right of contribution, indemnification or advancement from Buyer with respect to any Loss claimed by an Indemnified Party. Seller shall not make any claim for monetary damages or indemnification against either Buyer or its Subsidiaries with respect to any claim properly brought by a Buyer Indemnified Party under this Article VI or otherwise relating to this Agreement, any Transaction Document or the transactions contemplated hereby or thereby.

(d) Excluded Losses. In no event shall any Indemnifying Party be liable to any Indemnified Party for, and the definition of "Losses" shall be construed to entirely exclude, any punitive damages or decrease in or limitation of any Tax attribute, except in each case for such Losses that are actually awarded to a third party in respect of any Third-Party Claim for which indemnification is otherwise required pursuant to this Article VI.

(e) Mitigation. Upon becoming aware of any event which would reasonably be expected to, or does, give rise to indemnifiable Losses, each Indemnified Party shall use, and shall cause its Affiliates to use, commercially reasonable efforts to mitigate such Losses.

(f) Notwithstanding any other provision herein to the contrary, the amount of Losses that any Indemnified Party may recover for indemnification pursuant to this Agreement shall be offset against any amounts actually received by such Indemnified Party in respect of the Losses forming the basis of such claim for recovery from a third party pursuant to any indemnification or other similar right or any applicable insurance policy, less the out-of-pocket costs reasonably incurred in pursuing or obtaining such indemnification or insurance proceeds, including any related increases in insurance premiums. Each Party hereby agrees to use commercially reasonable efforts (excluding litigation) to claim for and obtain recovery of any such available insurance, indemnification, contribution, or similar payment; provided, however, that a Party shall not have any obligation to seek to recover any such insurance, indemnification, contribution or similar payment prior to making a claim for indemnification under this Article VI. If any Indemnified Party receives such amount from such third party subsequent to a recovery for indemnification under this Agreement, the applicable Indemnified Party will promptly remit such offset amount to the applicable Indemnifying Party hereunder.

Section 6.6 Payments.

(a) Except as set forth in Section 2.5, Section 6.2(c) and Section 6.6(b), the Indemnifying Party shall pay to the Indemnified Party the amount of any Loss for which it is liable hereunder, in immediately available funds, to an account specified by the Indemnified Party no later than five (5) Business Days following any Final Determination of the claims set forth in the related Claim Notice.

(b) Buyer shall have the right to offset any Losses it is entitled to recover under this Article VI against any amounts owed under any other provision of this Agreement, including Section 2.5(b), except that Buyer shall not have any right to offset any amounts owed to Seller under Section 5.8(f) or Section 5.9.

(c) All payments made by an Indemnifying Party to an Indemnified Party in respect of any claim pursuant to Section 6.2 or Section 6.3 shall be treated as adjustments to the consideration paid pursuant to the Transaction for Tax purposes.

Section 6.7 Exclusive Remedies and No Rights Against Nonparties.

(a) Following the Closing, the sole and exclusive remedies of the Parties for any Losses based upon, arising out of, or otherwise relating to this Agreement, the Transaction or any document or instrument delivered in connection herewith or therewith (but excluding the Master Services Agreement and the Transition Services Agreement), are the indemnification and reimbursement obligations of the Parties set forth in this Article VI and each Party expressly waives, and no Party shall assert, any and all rights and remedies for any Losses based upon, arising out of, or otherwise relating to this Agreement, the Transaction or any document or instrument delivered in connection herewith or therewith (but excluding the Master Services Agreement and the Transition Services Agreement). Notwithstanding the foregoing, nothing in this Section 6.7(a) shall (i) affect the Post-Closing Payment to be made as set forth in Section 2.5(c), (ii) limit any Party's right to assert claims pursuant to Section 5.8 or (iii) limit any Party's right to assert (A) claims of Fraud, (B) claims pursuant to Section 7.9(d) with respect to covenants to be performed at or following the Closing or (C) claims pursuant to the terms of the Master Services Agreement or the Transition Services Agreement.

(b) In addition to Section 6.7(a), this Agreement may only be enforced against, and any Action, right or remedy that may be based upon, arise out of or relate to this Agreement, any other Transaction Document or the Transaction, or the negotiation, execution or performance of this Agreement, may only be made against the Persons that are expressly identified as Parties in their capacities as parties to this Agreement, and no Party shall at any time assert against any Person (other than a Party) that is a director, officer, employee, stockholder, general or limited partner, member, manager, agent or Affiliate or representative of another Party (each, a "**Nonparty**") any claim, cause of action, right or remedy, or any Action, relating to this Agreement, any other Transaction Document, the Transaction or any document or instrument delivered in connection herewith or therewith. Each Party hereby waives and discharges any such claim, cause of action, right, remedy and Action, and releases (and agrees to execute and deliver any instrument necessary to effectuate the release of) each Nonparty therefrom. The provisions of this Section 6.7(b) are for the benefit of and shall be enforceable by each Nonparty, which is an intended third-party beneficiary of this Section 6.7(b) and Section 5.5 (*Further Assurances*) in connection herewith.

## ARTICLE VII

## MISCELLANEOUS

Section 7.1 Notices. All notices and other communications to be given or made hereunder shall be in writing and shall be deemed to have been duly given or made on the date of delivery to the recipient thereof if received prior to 5:00 p.m. in the place of delivery and such day is a Business Day (or otherwise on the next succeeding Business Day) if (a) served by personal delivery or by an internationally recognized overnight courier service to the Person for whom it is intended, (b) delivered by registered or certified mail, return receipt requested or (c) sent by email, as provided in this Section 7.1; provided, that the email is confirmed orally or in writing by the recipient thereof (excluding out-of-office replies or other automatically generated responses) or is followed up within one (1) Business Day after email by dispatch pursuant to one of the other methods described herein:

To Buyer:

DISH Wireless L.L.C.
9601 S. Meridian Boulevard
Englewood, CO 80112
Telephone: (303) 723-1000
Email: [REDACTED]
Attn: General Counsel

With a copy to (which shall not constitute notice to Buyer):

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Telephone: (212) 558-4000
Email: [REDACTED]
Attn: Scott Crofton

To Seller:

Tucows Inc.
96 Mowat Ave.
Toronto, Ontario M6K 3M1, Canada
Email: [REDACTED]
Attn: Elliot Noss, CEO

With a copy to (which shall not constitute notice to Seller):

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Email: [REDACTED]
Attn: Joanne R. Soslow and Benjamin R. Wills

or to such other Person or addressees as may be designated in writing by the Party to receive such notice as provided above; provided, however, that copies shall be provided to outside counsel for convenience only, such copies shall not, in and of themselves, constitute notice and the failure to provide any such copy shall not alter the effectiveness of any notice or other communication otherwise duly made or given.

Section 7.2 Amendment; Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by both Buyer and Seller, or in the case of a waiver, by the Party granting the waiver. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law, except as provided in Article VI.

Section 7.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. No Party to this Agreement may assign any of its rights or delegate any of its obligations under this Agreement, by operation of Law or otherwise, without the prior written consent of the other Party, except that Buyer may assign any of its rights or obligations under this Agreement or any Ancillary Agreement to one or more of its wholly owned Subsidiaries; provided, that, no such assignment shall relieve Buyer of any liability therefor. Any purported assignment in violation of this Agreement is void.

Section 7.4 Third-Party Beneficiaries; Parties in Interest. Except as provided in Article VI only, which is intended to benefit, and to be enforceable by, the parties specified therein, there shall be no third-party beneficiaries of this Agreement, any Ancillary Agreement or any exhibit, annex or schedule hereto or thereto, and none of them shall confer on any Person other than the parties hereto and thereto any claim, cause of action, right or remedy. Without limiting the foregoing sentence, no direct or indirect holder of any equity interests or securities of either Seller or Buyer (whether such holder is a limited or general partner, member, stockholder or otherwise), nor any officer, director, agent, representative or Affiliates of either Seller or Buyer, nor any controlling Person of Buyer, Seller or their respective Affiliates, shall have any Liability or obligation arising under this Agreement or the Transaction.

Section 7.5 Expenses. Except as otherwise provided in this Agreement and the Ancillary Agreements, all costs and expenses (including fees and expenses of counsel and financial advisors, if any) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

Section 7.6 Bulk Sales. Buyer acknowledges that Seller and its Affiliates have not taken, and do not intend to take, any action required to comply with any applicable bulk sale, bulk transfer Laws or similar Laws of any jurisdiction. Seller and Buyer hereby agree to waive compliance with such any applicable bulk sale, bulk transfer Laws or similar Laws of any jurisdiction in connection with the transactions contemplated hereby.

Section 7.7 Entire Agreement. This Agreement and the other documents and writings referred to herein or delivered pursuant hereto (including any exhibits or schedules hereto), the Ancillary Agreements and the Confidentiality Agreement constitute the entire agreement and supersede all other prior agreements, understandings, representations and warranties, both written and oral, among the Parties, with respect to the subject matter hereof; provided, however, that each Party acknowledges and agrees that the Confidentiality Agreement shall automatically terminate and be of no further force or effect at and as of the Closing and this Agreement supersedes any provision to the contrary in the Confidentiality Agreement.

Section 7.8 Fulfillment of Obligations. Any obligation of any Party to any other Party under this Agreement, or any Party under any of the Ancillary Agreements, which obligation is performed, satisfied or fulfilled completely by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

Section 7.9 Governing Law and Venue; Waiver of Jury Trial; Specific Performance.

(a) This Agreement, and all Actions (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement), shall be governed by, and enforced in accordance with, the Laws of the State of New York, including its statutes of limitations, without giving effect to any borrowing statute or applicable principles of conflicts of law to the extent that the application of the laws (including statutes of limitation) of another jurisdiction (whether of the State of New York or any other jurisdiction) would be required thereby.

(b) Each Party agrees that it shall bring any Action in respect of any claim based upon, arising out of or relating to this Agreement or any Ancillary Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement exclusively in the federal courts of the U.S. located in New York County; provided, however, that if such federal court does not have jurisdiction over such Action, such Action shall be heard and determined exclusively in any New York state court located in New York County (the "**Chosen Courts**") and solely in connection with claims arising under or relating to this Agreement or any of the Ancillary Agreements (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to the laying of venue in any such action or proceeding in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party and (iv) agrees that mailing of process or other papers in connection with any such Action in the manner provided in Section 7.1 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(c) EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE ANCILLARY AGREEMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS SET FORTH IN THIS Section 7.9(c).

(d) Irreparable damage would occur in the event that any covenant herein were not to be performed in accordance with its terms. Accordingly, each Party shall be entitled to seek one (1) or more injunctions to prevent any breach of covenant and to enforce specifically this Agreement in the Chosen Courts, in addition to any other remedy to which such Party may be entitled at law or in equity.

Section 7.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement.

Section 7.11 Interpretation; Construction.

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. Where a reference in this Agreement is made to an Annex, Exhibit, Section or Schedule, such reference shall be to an Annex, Exhibit, Section or Schedule to this Agreement unless otherwise indicated.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). The terms defined in the singular have a comparable meaning when used in the plural and vice versa. The rule known as the *ejusdem generis* rule shall not apply, and, accordingly, general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things. Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "or" shall not be exclusive. Currency amounts referenced herein are in U.S. Dollars. Any capitalized term used in any Schedule or Exhibit but not otherwise defined therein shall have the meaning given to them as set forth in this Agreement. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP. References to "written" or "in writing" include documents in electronic form or transmission by email. A reference to any Person includes such Person's successors and permitted assigns.

(c) Except as otherwise specifically provided herein, all references in this Agreement to any Law include the rules and regulations promulgated thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and shall also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith; provided, that for purposes of any representations and warranties set forth in this Agreement that are made as of a specific date, references to any Law shall be deemed to refer to such Law as amended as of such date. Any agreement or instrument referred to herein means such agreement or instrument as from time to time amended, modified or supplemented, including by waiver or consent and all attachments thereto and instruments incorporated therein.

(d) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.

(e) Each representation, warranty, covenant and condition set forth in this Agreement shall be given full, separate and independent effect. The provisions of this Agreement are cumulative. A more specific provision shall limit the applicability of any other, more general, provision.

(f) The Parties have drafted this Agreement jointly through the exchange of drafts hereof, so no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(g) Neither the specification of any dollar amount in any representation or warranty set forth in this Agreement nor the inclusion of any specific item in any Schedule is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no Party shall use the fact of setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in any Schedule is or is not material for purposes of this Agreement. Neither the specification of any item or matter in any representation or warranty set forth in this Agreement nor the inclusion of any specific item in any Schedule is intended to imply that such item or matter, or other items or matters, are or are not in the Ordinary Course of Business, and no Party shall use the fact of the setting forth or the inclusion of any specific item or matter in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in any Schedule is or is not in the Ordinary Course of Business for purposes of this Agreement.

Section 7.12 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority of competent jurisdiction to be invalid, void or unenforceable, or the application of such provision, covenant or restriction to any Person or any circumstance is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision, covenant or restriction to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application of such provision, in any other jurisdiction, and the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 7.13 Obligations of Buyer and of Seller. Whenever this Agreement requires a Subsidiary of Buyer to take any action, such requirement shall be deemed to include an undertaking on the part of Buyer to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of Seller to take any action, such requirement shall be deemed to include an undertaking on the part of Seller to cause such Subsidiary to take such action.

[*Signature pages follow.*]

IN WITNESS WHEREOF, the Parties have executed or caused this Agreement to be executed as of the date first written above.

**DISH WIRELESS L.L.C.**

By: _____
Name:
Title:

**TUCOWS INC.**

By: _____
Name:
Title:

Schedules and Exhibits to the agreement have been omitted pursuance to Item 601(b)(2) of Regulation S-K. The Company undertakes to furnish supplementary copies of any of the omitted schedules upon request by the SEC.

**Exhibit 10.2**
**EXECUTION VERSION**

**[REDACTED] Indicates that certain information in this exhibit has been excluded because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.**

**Mobile Virtual Network Enabler ("MVNE") Master Services Agreement**

This Mobile Virtual Network Enabler ("MVNE") Master Services Agreement (this "**MSA**" and, together with the recitals and any and all schedules, exhibits and attachments hereto, and any Order Forms entered into by the Parties as of or after the Effective Date, collectively, this "**Agreement**") is made and entered into to be effective as of August 1, 2020 (the "**Effective Date**") by and between Ting, Inc., a Delaware corporation and mobile virtual network enabler services provider having a place of business at 96 Mowat Ave, Toronto, Ontario, M6K 3L7 ("**MVNE SP**"), **DISH Wireless L.L.C.**, a Colorado corporation ("**DISH**") having a place of business at 9601 South Meridian Boulevard, Englewood, Colorado 80112 (the "**Location**"). DISH and MVNE SP may be referred to in this Agreement individually as a "**Party**" and, collectively, as the "**Parties**." Capitalized terms used herein shall have the meanings set forth in this Agreement.

**Recitals**

**WHEREAS**, MVNE SP is engaged, among other things, in the business of providing certain enabling services, Professional Services and any and all other services pursuant to this Agreement, or any combination thereof, including the services described in any Schedules or Order Forms (collectively, the "**Services**"); and

**WHEREAS**, DISH desires to obtain access to and utilize certain of the Services provided by MVNE SP, and MVNE SP desires to provide the Services to DISH, on the terms and subject to the conditions set forth in this Agreement; and

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MVNE SP and DISH agree as follows:

**Agreement**

**1. DEFINITIONS.**

**1.1.** "**Action**" shall mean any action, suit, claim, complaint, litigation, investigation, audit, proceeding, arbitration or other similar dispute.

**1.2.** "**Activations Footprint**" means the geographic areas in the Territory, as defined by postal zip code designated by the Underlying Carrier from time to time, which are available to activate the MVNO Offerings for End Users through the Service Transaction Gateway. DISH is responsible to ensure that the Underlying Carrier will include all zip codes in the Activations Footprint that (i) are in areas that are within the Territory, excluding Territory serviced by Roaming carriers; and (ii) are within a Local Calling Area.

**1.3.“Affiliate”** means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (for purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise). DISH’s Affiliates do not include EchoStar Corporation or any of its direct or indirect wholly owned subsidiaries

**1.4.**“**Agreement**” has the meaning set forth in the preamble.

**1.5.**"**Authorized Representative**" means an authorized representative of a Party, which authorized representative for DISH is an officer of DISH holding a title not less senior than senior vice president only and for MVNE SP is an officer of MVNE SP holding a title of not less senior than vice president.

**1.6.**“**Boost Subscribers**” means subscribers for DISH’s Boost branded MVNO or MNO service (or any subsequent brand name for the service currently branded as “Boost”).

**1.7.**“**Business Data**” mean any and all data, content and/or other consumer, prospect, business and/or other data or information, including, without limitation, information and data generated from DISH’s or any DISH Affiliate’s use of the Services, and any data and information collected, created, generated, processed and/or otherwise developed in connection with the Services (e.g., without limitation, rates, rate plans, equipment records and usage and viewer data, statistics, and/or other information, and customer notices, whether stripped or scrubbed of personally identifiable information or otherwise anonymized or de-identified, and whether obtained directly or indirectly from DISH, a DISH Affiliate or any other third party).

**1.8.**“**Business Day**” means any day ending at 11:59 p.m. (Eastern Time) other than a Saturday, a Sunday or a day on which banks in the City of New York are authorized or obligated by Law or executive order to close.

**1.9.**“**Change Request**” has the meaning set forth in Section 2.6 of the Agreement.

**1.10.**“**Change Request Offer**” has the meaning set forth in Section 2.6 of the Agreement.

**1.11.**“**Claim**” means any costs, losses, liabilities, damages, lawsuits, judgments, claims, actions, penalties, fines and expenses (including, without limitation, interest, penalties, reasonable attorneys’ fees and all other monies paid in the investigation, defense or settlement of any or all of the foregoing).

**1.12.**“**Compliance Auditor**” has the meaning set forth in Schedule I.

**1.13.**“**Customer Offerings**” means DISH’s MVNO and MNO offerings to a Person based on the wireless communications services that the Underlying Carrier (or DISH in the case of MNO offerings) will provide to such Person as a service offered by DISH or a DISH Affiliate. MVNO and MNO Offerings include Data Services, Roaming, SMS Services, Voice Services and other wireless communication services. For the avoidance of doubt, MVNE SP’s Services are limited to supporting those Customer Offerings explicitly identified in this Agreement or as otherwise agreed in writing between the parties and may not include all services supported by the Underlying Carrier in its agreement with DISH. For further clarity, Customer Offerings do not include pay television or video offerings including, without limitation, digital broadcast satellite television, online streaming video services (e.g., Sling Television) or similar services.

**1.14.**"**Data Service**" means the data service provided by Underlying Carrier (if any).

**1.15.“Data Center Operator**" has the meaning set forth in Schedule I

**1.16.**"**Deliverables**" means any files, works, inventions, products, processes, apparatuses, designs, artwork, materials, creative and/or other intellectual property of any nature whatsoever and any enhancements, modifications or improvements thereto resulting from and/or suggested thereby, that MVNE SP or any of MVNE SP's employees, individually or jointly, improved, created, invented, discovered, conceived, originated, reduced to practice or otherwise developed for DISH or its Affiliate(s) and/or in connection with the Services provided pursuant to this Agreement, including, without limitation, software and/or prototypes of software.

**1.17.**"**Developments**" Has the meaning set forth in Section 13.

**1.18.**"**Device**" means a single unit of radio telephone equipment having a unique IMEI (including the associated SIM Card) for use in connection with its own Number which includes operating system and other software, which is technically and operationally compatible with the Facilities.

**1.19.“DISH**" is defined in the preamble of this Agreement.

**1.20.**"**DISH Competitor**" means any Person and its Affiliates providing retail wireless communications services, including, without limitation, data services, roaming, SMS services and voice services, whether as a mobile network operator, a mobile virtual network operator or otherwise.

**1.21.“DISH Data**" means any and all information of DISH, including, without limitation, Business Data, Subscriber Information and any and all other Confidential Information of DISH and/or its Affiliates, regardless of the method such information is received, collected or otherwise processed and regardless of the form, format or medium in or on which such data and/or information is stored.

**1.22.**"**DISH Indemnitees**" has the meaning set forth in Section 11.1 of this Agreement.

**1.23.**"**DISH Materials**" any (i) designs, documents, data, know-how, instructions, information, methodologies, software, and other materials provided to MVNE SP by DISH, including computer programs, reports, or (ii) any descriptions, details or information regarding enhancements.

**1.24.**"**DISH Subscribers**" means any End User who receives any Customer Offering from DISH or its Affiliates enabled by the MVNE SP Services. For the avoidance of doubt, DISH Subscribers include, without limitation, Boost Subscribers and Ting Subscribers.

**1.25.“DISH User”** means the respective employees, agents, representatives, and/or consultants designated or authorized by DISH or any DISH Affiliate to use the Services.

**1.26.**"**DISH Works**" means any and all Intellectual Property and/or other works developed or created by or on behalf of MVNE SP or its Affiliates for DISH or its Affiliates pursuant to a Statement of Work and identified as being "DISH Works" or specified as being owned by DISH in a Statement of Work. DISH Works include any modifications to or developments for the website or mobile application offered to or used by Boost Subscribers unless explicitly addressed otherwise in a Statement of Work in such case the Statement of Work shall control.

**1.27.**"**EDGE**" means Enhanced Data rates for GSM Evolution.

**1.28.**"**Effective Date**" means the date set forth in the beginning of this Agreement, or if no date is set forth, then the later of the two signatures attached to this Agreement.

**1.29.**"**End User**" means a Person who obtains any Customer Offerings from DISH**.**

**1.30.** "**End User Documentation**" means any and all End User documentation made available to MVNE SP and/or its Affiliates by DISH for distribution to End Users either digitally or in hard copy format, including, without limitation, operating, training and reference manuals relating to the use of the Customer Offerings, and any other materials or documents and any enhancements, modifications or upgrades thereto, made available to MVNE SP and/or its Affiliates by DISH from time to time pursuant to this Agreement.

**1.31.** "**Enhancements**" means any updates, upgrades, modifications, new releases and corrective programming to the Hosted Service provided as part of Support Services. For clarity, Enhancements do not include any custom enhancement, modification or improvement MVNE SP provides specifically for DISH or any DISH Affiliate as explicitly identified in a Schedule, Service Order or Statement of Work, which shall be considered a "Deliverable"

**1.32.** "**Equipment**" means all or any portion of the equipment, software, technology, handsets, accessories, Devices, or other materials or equipment used by DISH in its business operation or by End Users in their use of the MVNO Offerings.

**1.33.** "**Expiration Notice**" has the meaning set forth in Section 12.3 of this Agreement.

**1.34.** "**Facilities**" means the communications switching equipment and cell site transceiver equipment, maintained, expanded, modified or replaced by the Underlying Carrier to render service to DISH such that DISH can make Customer Offerings available to End Users in the Territory; or (b) DISH to provide MNO Customer Offerings to End Users

**1.35.** "**FCC**" means the Federal Communications Commission.

**1.36.** "**Fees**" means the fees, charges and/or other amounts expressly specified in the Agreement or applicable Schedule(s), Order Form or Statement of Work. For the avoidance of doubt, all Fees referenced in this Agreement are in United States Dollars unless expressly noted otherwise

**1.37.** "**Force Majeure Event**" has the meaning set forth in Section 18.4 of this Agreement.

**1.38.** "**Fraudulent Usage**" means use of the network of an Underlying Carrier in a manner that is not permitted by the agreement between DISH and the relevant Underlying Carrier or that is not permitted by the agreement between DISH or the relevant DISH Affiliate and the End User.

**1.39.** "**Gigabyte**" or "**GB**" means 1,073,741,824 bytes.

**1.40.** "**GPRS**" means General Packet Radio Service.

**1.41.** "**GSM**" means the Global System for Mobile Communications, a "time division-based" wireless communications standard.

**1.42.** "**Hosted Service**" means the software and services described in this Agreement, including any Order Forms, Statements of Work, Schedules or attachments hereto using the Ting Platform.

**1.43.** "**Hosted Services Documentation**" means any and all documentation, including, without limitation, operating, training and reference manuals relating to the use of the Hosted Service by DISH Users, and any other materials or documents and any enhancements, modifications or upgrades thereto, made available to DISH and/or its Affiliates by Vendor from time to time pursuant to this Agreement.

**1.44.** "**Indemnified Party**" has the meaning set forth in Section 11.5.1 of this Agreement.

**1.45.** "**Indemnifying Party**" has the meaning set forth in Section 11.5.1 of this Agreement.

**1.46.** "**IMEI**" means International Mobile Equipment Identity, the unique permanently assigned identification number installed in each Device when it is manufactured.

**1.47.**"**Intellectual Property**" means all patentable and unpatentable inventions, works of authorship or expression, computer programs, data collections and databases, and trade secrets, products, processes, apparatuses, technology, platforms, methodologies, techniques, ideas, concepts, designs, tools, , data, documentation, information and know-how, each regardless of the origin, form or media in or on which the original and/or any copy may at any time exist, and in each case, including all rights therein or thereto anywhere in the world.

**1.48.**"**IP Claim**" means any Claims arising from or relating to any actual or alleged infringement or misappropriation of any Intellectual Property of a third party (not including any DISH Affiliates) arising from or in connection with the Services as provided by or on behalf of MVNE SP to DISH.

**1.49.**"**Knowledge**" means the actual knowledge, after reasonable inquiry of direct reports, of (a) the individuals listed on **Schedule K** with respect to MVNE SP.

**1.50.**"**Law**" means any federal, state, local or non-U.S. law, statute or ordinance, common law, or any rule, regulation, standard, judgment, Order, writ, injunction, decree, arbitration award, agency requirement, license or Permit of any Governmental Entity.

**1.51.**"**Licensed Data**" means data, reports and other information provided to DISH and/or its Affiliates by MVNE SP or a third party in connection with the Services.

**1.52.**"**Letter of Completion**" means a letter that: **(a)** describes the applicable phase(s), deliverables, and/or milestones and outcomes achieved, and, as necessary, the circumstances indicating its (or their) achievement; **(b)** sets forth dates worked and the corresponding Professional Services performed; and **(c)** has been duly executed by MVNE SP's Authorized Representative designee and submitted to DISH.

**1.53.**"**Local Calling Area**" means any and all geographic areas in the Territory which include areas within a Rate Center (i) where the Underlying Carrier (or DISH in the case of MNO offerings) actively manages Local Numbers ("Underlying Carrier Rate Center"), and (ii) from which a local exchange carrier offers at least one local calling plan to DISH on an Underlying Carrier Rate Center.

**1.54.**"**Local Number**" means a Number that the Underlying Carrier provides to DISH, or in the case of MNO offerings, a Number provided by DISH to which Number a local exchange carrier provides at least one local calling plan from the zip code submitted to the Underlying Carrier by MVNE SP on behalf of DISH as part of DISH's request to activate a Customer Offering to a SIM Card.

**1.55.**"**Location**" has the meaning set forth in the preamble to this Agreement.

**1.56.**"**LTE**" means Long Term Evolution mobile communication standard of format (as defined in the applicable 3rd Generation Partnership Project or "3GPP" standards) as the same may be modified, updated or amended from time to time.

**1.57.**"**MNO**" or "**Mobile Network Operations**" means a wireless communications service offering of DISH and/or a DISH Affiliate in which DISH and/or its relevant Affiliate(s) relies on its own wireless network to provide wireless connectivity for such service offering.

**1.58.**"**Monthly Average**" means, for the relevant invoice period, the quotient determined by dividing: (a) the sum of the number of total DISH Subscribers for each day during the invoice period; by (b) the total number of days in the invoice period.

**1.59.**"**Monthly Service Fees**" shall have the meaning provided for in **Schedule C**.

**1.60.**"**MSISDN**" means the Mobile Subscriber Integrated Services Digital Network Number uniquely identifying a SIM Card.

**1.61.**"**MVNE**" is defined in the preamble of the Agreement.

**1.62.**"**MVNE SP**" acronym for MVNE Service Provider and is defined in the preamble of the Agreement and refers specifically to Ting, Inc.

**1.63.**"**MVNO**" means a wireless communications service offering of DISH and/or a DISH Affiliate in which DISH and/or its relevant Affiliate(s) relies on an Underlying Carrier to provide the network for wireless connectivity for such service offering.

**1.64.**"**Number**" means the ten (10) digit telephone number (Numbering Plan Area/Numbering Plan Exchange or "NPA/NXX") assigned by Underlying Carrier to a SIM Card used to provide access to DISH's Customer Offerings.

**1.65.**"**Order Form(s)**". At any time and from time to time during the Term, additional products and/or services may be provided by MVNE SP to DISH pursuant to an Order Form or statement of work executed by Authorized Representatives of each of the Parties (each referred to herein as an "**Order Form**") or as otherwise specified in this Agreement or necessary for the use of any Services described herein. Each Order Form will be in substantially the form attached to this Agreement as Schedule G (Sample Order Form), which Schedule G is hereby attached to and incorporated in this Agreement by this reference in its entirety. Notwithstanding the foregoing, in the event that DISH elects to renew or extend any Service Term, below, then **(a)** MVNE SP will provide a quote to DISH for the Services to be renewed pursuant to the terms and conditions of the applicable Order Form; **(b)** following receipt of such quote, DISH will review and issue a purchase order to MVNE SP; and **(c)** MVNE SP will invoice DISH for the Services in accordance with the applicable Order Form. For clarity, any terms and/or conditions in MVNE SP's quote or DISH's purchase order that are inconsistent with the provisions of this Agreement shall be of no force or effect.

**1.66.**"**Party**" has the meaning set forth in the preamble to this Agreement.

**1.67.**"**Person**" means any natural person, corporation, company, partnership (general or limited), limited liability company, trust or other.

**1.68.**"**Personnel**" means any and all employees, agents, representatives, consultants, contractors, subcontractors and other designees of either MVNE SP or DISH, as applicable, and their Affiliates and/or any other person or entity under the direct or indirect control or direction of DISH or MVNE SP or their Affiliates.

**1.69.**"**Platform Revenue**" means all revenue or other consideration delivered by DISH or any other Person to MVNE SP, any successor, assignee or licensee thereof, and any of their respective Affiliates, in each case that is related, either directly or indirectly, to the Ting Platform or such substantially similar service; provided that, any one-time payments (e.g. non-recurring payments or payments that are a prepayment for recurring services that would otherwise be provided over time) in excess of One Million Dollars ($1,000,000) shall be applied to Service Revenue on a prorated basis for the period of time over which such payments would have otherwise been made in the absence of a one-time payment.

**1.70.**"**Pre-Existing Intellectual Property**" has the meaning set forth in Section 13.1 of this Agreement.

**1.71.**"**Primary MVNE Provider**" means that MVNE SP is the primary provider to DISH of retail billing and provisioning services for 5G retail customers of DISH's retail Customer Offerings.

**1.72.**"**Professional Services**" means implementation, training, consulting and other services set forth in the applicable Order Form.

**1.73.**"**Professional Services Rates**" means the hourly rates set forth in the applicable Order Form for professional services provided at an hourly rate.

**1.74.**"**PTCRB**" means PCS Type Certification Review Board.

**1.75.**"**Purchase Agreement**" means that certain Asset Purchase Agreement between DISH Wireless L.L.C. and Tucows, Inc., dated as of August 1, 2020.

**1.76.**"**Rate Center**" means a geographic area that is used by a local exchange carrier to set rate boundaries for billing and for issuing Numbers.

**1.77.**"**Records**" has the meaning set forth in Section 16 of this Agreement.

**1.78.**"**Roaming**" means the service provided to a DISH via communications switching equipment or cell site transceiver equipment that is operated by a Person other than Underlying Carrier (or DISH in the case of MNO offerings) or its wholly-owned subsidiaries, and with whom Underlying Carrier or DISH, as applicable has an agreement to provide service to Customers.

**1.79.**"**Services**" has the meaning set forth in the recitals to this Agreement. For clarity, all references to Services include, without limitation, the Deliverables, Enhancements, Hosted Service, Hosted Service Documentation, Licensed Data, Support Services, Professional Services, and the Ting Platform.

**1.80.**"**Service Term**" has the meaning set forth in Section 12.1 of this Agreement.

**1.81.**"**Service Transaction Gateway**" means the electronic application programming interface between the Underlying Carrier and MVNE SP established on behalf of DISH through which DISH may view and perform transactions related to End Users' SIM Cards.

**1.82.**"**SIM Card**" means Subscriber Identity Module card.

**1.83.**"**SLAs**" has the meaning set forth in Section 2.12 of this Agreement.

**1.84.**"**SMS**" means a short message service text message with up to 160 characters of 7-bit ASCII text or 140 bytes of data sent from (i.e., SMS-Mobile Originated or "SMS-MO") or to (i.e., SMS-Mobile Terminated or "SMS-MT") an End User's Device.

**1.85.**"**SMSC**" means a short messaging service center operated by or for Underlying Carrier that manages the distribution of SMSs to End Users.

**1.86.**"**SMS Aggregator**" means a third party SMS provider that provides SMS aggregation services on behalf of MVNE SP, the Underlying Carrier or both parties.

**1.87.**"**SMS Service**" means the SMS service provided by Underlying Carrier (if any) as further described in the separate agreement entered into by DISH and the Underlying Carrier.

**1.88.**"**SMS Short Code**" means a unique code that enables the SMSC to identify DISH as the intended recipient of a SMS and route the SMS to Customer.

**1.89.**"**Specifications**" means the descriptions of services, technical details of the Services, whether provided for in the Schedules, any Order Form, or Statement of Work agreed to by the Parties in writings executed by Authorized Representatives of the Parties.

**1.90.**"**SSAE 18**" has the meaning set forth in Schedule I

**1.91.**"**SSAE 18 Report**" has the meaning set forth in Schedule I

**1.92.**"**Statement of Work**" means a document signed by both Parties setting for a statement of work for feature development, integration work or other professional services of any kind that DISH desires MVNE SP to provide pursuant to this Agreement, which feature development, integration work or other professional services shall be deemed Services pursuant to this Agreement.

**1.93.**"**Subscriber Information**" means the names, addresses, email addresses, internet protocol addresses, other identifying information and other nonpublic information of DISH Subscribers provided to MVNE SP or its Affiliates by DISH or its Affiliates pursuant to this Agreement or otherwise obtained by MVNE SP in connection with its performance of the Services and includes "Customer Proprietary Network Information" as such term is defined in Schedule I.

**1.94.**"**Support Services**" means the maintenance, technical support and Enhancements provided to DISH and DISH's Affiliates in accordance with this Agreement.

**1.95.**"**Taxes**" means all federal, state or local and all foreign taxes, including income, gross receipts, windfall profits, value added, severance, property, production, sales, use, duty, license, excise, franchise, employment, withholding or similar taxes, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

**1.96.**"**Territory**" or "**Territories**" means those parts of the United States of America including its possessions and territories.

**1.97.**"**Term**" has the meaning set forth in Section 12 of this Agreement.

**1.98.**"**Termination Effective Date**" has the meaning set forth in Section 12 of this Agreement.

**1.99.**"**Termination Notice**" has the meaning set forth in Section 12 of this Agreement.

**1.100.**"**Ting Platform**" means the software and technology stacks used in providing the Services as defined within **Schedule** A (Scope of Services), an Order Form, Statement of Work or Change Order, as well as any executables, objects, code, scripts, plug-ins, application program interface(s), subroutines, programs, applications, applets, modules, components, scripts, software development kits or other applications or information technologies (e.g., without limitation, cookies, beacons, tags, tokens and/or pixels), work products or other material whether in object, source or other form (e.g., without limitation, HTML or distributed code), and whether delivered in encrypted or unencrypted form, provided by MVNE SP pursuant to this Agreement or otherwise required in connection with this Agreement, or in connection with MVNE SP providing any of the Services to DISH, including, without limitation, the specific applications identified in any Order Form, Statement of Work or Change Order, provided that any applications explicitly identified in any Order Form as exclusively "DISH Works" are excluded from the definition of Ting Platform.

**1.101.**"**Ting Subscriber**" means subscribers to DISH or to DISH's Affiliates branded MVNO or MNO services (or any subsequent brand name for the service that as of the day before the Effective Date were branded as "Ting").

**1.102.**"**Transition Period**" has the meaning set forth in Section 12 of this Agreement.

**1.103.**"**Transition Period Notice**" has the meaning set forth in Section 12 of this Agreement.

**1.104.**"**Transition Services Agreement**" means that certain Transition Services Agreement, dated August 1, 2020, by and between DISH Purchasing Corporation, a Colorado corporation, and MVNE SP.

**1.105.**"**Underlying Carrier**" means a mobile network operator, wireless service provider, wireless carrier, cellular company, or mobile network carrier with which DISH has a contractual relationship and which has been disclosed to MVNE SP in writing. At the time of execution of this Agreement, the Underlying Carrier is T-Mobile US, Inc.

**1.106.**"**Underlying Carrier Network**" means the wireless network generally accessible to MVNO subscribers (i.e., GSM, GPRS, EDGE, UMTS, HSPA+, and LTE from time to time), including the Underlying Carrier Facilities that are operated by Underlying Carrier, but excludes all successor networks.

**1.107.**"**Voice Service**" means the wireless voice service provided by Underlying Carrier.

**2. SERVICE AND SERVICE LIMITATIONS.**

**2.1.Provision of Service.** Subject to the terms and conditions of this Agreement, during the Term, MVNE SP will provide to DISH and DISH's Affiliates in accordance with this Agreement and any additional terms and conditions set forth in the applicable Order Form or Statement of Work, except as otherwise agreed in connection with the applicable Order Form or Statement of Work, to the extent that MVNE SP provides software to DISH and/or its Affiliates, MVNE SP shall make such software available for electronic download and/or electronic transfer by DISH and/or its Affiliates. The provisioning of Services under this Agreement will not have a per seat license, regardless of the number of DISH Users of the Services.

**2.2.Services Non-Exclusive**. Except as provided under Section 2, nothing in this Agreement shall prevent MVNE SP from rendering or performing the Services, in whole or in part, or services similar to the Services to or for itself or other Persons without limitation.

**2.3.Development for DISH Launch**. MVNE SP will provide certain customized development services to enable and support the initial roll-out of DISH's Customer Offerings, consisting of MVNE SP's consultation and delivery of services, as detailed in the Scope of Work ("**SOW**") attached hereto as Schedule A and any exhibits thereto.

**2.4.License Grant**

2.4.1.**License Grant to DISH**. In accordance with the terms and conditions of this Agreement, MVNE SP hereby grants to DISH and its Affiliates the nonexclusive, royalty-free, worldwide rights and licenses to access and use any and all Services (including, without limitation, to access and to use the Ting Platform, the Hosted Service, and the Hosted Service Documentation or other Intellectual Property embedded in, or used in the development of, such Services) solely as needed for DISH's and DISH's Affiliates' to use the Services under this Agreement for the business purposes of DISH and its Affiliates, including, without limitation, access to public facing portions of the Services (such as, by way of example and not limitation, an ecommerce website) by End Users. MVNE SP hereby acknowledges and agrees that the DISH Users are included in the foregoing grant to access and to use the Services for DISH's and DISH's Affiliates' business purposes; provided, however, that DISH shall be responsible for ensuring that any such use is in accordance with this Agreement. When this Agreement is terminated or expires for any reason or no reason, all licenses granted by MVNE SP to DISH, and the DISH Users' rights herein, shall expire at such time.

2.4.2.**License Grant to MVNE SP**. DISH hereby grants to MVNE SP, its Affiliates and its subcontractors the nonexclusive, royalty-free, worldwide rights and licenses to access and use any and all DISH Data, DISH Works (including, without limitation, any and all Licensed Data, End User Documentation or other Intellectual Property embedded in, or used in the development of, such Services) solely as needed to perform the Services under this Agreement. When this Agreement is terminated or expires for any reason or no reason, all licenses granted by DISH to MVNE SP shall expire at such time.

**2.5.Ongoing Support Services**. After the initial deployment of DISH's MVNO services, MVNE SP will provide ongoing services in support of DISH's Customer Offerings in accordance with any and all SLAs **(**as defined below**)** and other Specifications. MVNE SP shall provide to DISH and its Affiliates any and all Hosted Service Documentation, bug fixes, updates and any and all other changes to the Services that MVNE SP provides to itself or its other customers without any obligation that DISH, any of its Affiliates or any Hosted Services User satisfy any additional term or condition whatsoever.

**2.6.Change Requests.** DISH may, at any time and from time to time, by written notice to MVNE SP, request reasonable modifications and/or additions to the Services as provided within **Schedule E, Change Request**, pursuant to this Agreement (a "**Change Request**"). If DISH delivers to MVNE SP a Change Request Form in accordance with **Schedule E**, then MVNE SP shall review the Change Request as promptly as possible, but in no event more than ten (10) business days following receipt of any such Change Request, and send notice to DISH: **(a)** offering to provide the requested modifications to DISH as promptly as possible; and **(b)** detailing any required equitable adjustment to the Fees that will be incurred by MVNE SP in connection with providing such requested modifications and/or additions, if any (such notice, a "**Change Request Offer**"). In the event that DISH desires to accept the terms of any Change Request Offer, then DISH may sign such Change Request Offer, and the Services shall be modified and/or supplemented in accordance with the Change Request Offer. If MVNE SP cannot provide and/or develop the products and/or services necessary to deliver the modifications set forth in any Change Request, then MVNE SP shall deliver to DISH notice as promptly as possible, but in no event more than ten (10) business days detailing the results of MVNE SP's evaluation of the Change Request and the reasons for which such modifications cannot be provided. DISH may also request changes to the Change Request Offer and, if the Parties reach agreement to a modified Change Request Offer, upon signature of such Change Request Offer by both Parties, the Services shall be modified as set forth therein.

**2.7.Network Coverage and Underlying Carrier's Systems.** Customer Offerings depend on the network coverage area provided by the Underlying Carrier and will be available within the range of the service area of the Underlying Carrier Network (as this area exists from time to time) in accordance with the separate agreement that DISH has entered into with the Underlying Carrier. MVNE SP provides no warranty regarding the Underlying Carrier's Facilities and will not incur any liability for any failed 911 calls. MVNE SP provides no warranty regarding the Underlying Carrier's Facilities and will not incur any liability for problems with Customer Offerings except to the extent that, as between MVNE SP and other parties that maybe responsible for such problems are caused by MVNE SP, its Affiliates', or its Personnel. MVNE SP will not have any responsibility for modifications, upgrades or decommissions of operational, billing or other support systems made by the Underlying Carrier that have a negative impact on DISH's use of the Services, Hosted Services Users, Customer Offerings, or End Users due to MVNE SP's integration with, or reliance upon, such Underlying Carrier systems except where MVNE SP has received prior notice and failed to take actions required under this Agreement or that MVNE SP should reasonably be expected to take as a provider of the Services.

**2.8.Operational Changes to MVNE SP's Systems**.

2.8.1.**Material Adverse Impact**. Nothing in this Agreement will prevent MVNE SP from upgrading or changing its operational systems during the Term, provided that if such changes would have a reasonably foreseeable material adverse impact on DISH or the Customer Offerings enabled by the Services, MVNE SP provides DISH not less than thirty (30) days in advance of such changes, and the Parties shall meet and confer to determine how to implement such upgrades or modifications in a manner that causes minimum disruption to DISH and the Customer Offerings enabled by the Services. Except with respect to a Critical Change (as defined below) or changes permitted in accordance with Section 11.3 (IP Claims), MVNE SP may not implement any such changes that will have a material adverse effect on the Services without DISH's approval. Fees for any Services materially adversely impacted by any such changes will be adjusted to account for the impact of such changes, in an amount mutually agreed between the Parties.

2.8.2. **Critical Changes**. In the following instances, MVNE SP may be required to promptly implement changes that could materially adversely impact the Services, and may in some cases be unable to provide thirty (30) days' prior notice of the change ("**Critical Changes**"): (i) for purposes of addressing data security issues; (ii) to address upgrades, modifications, or other changes made to Underlying Carrier systems by Underlying Carriers; or (iii) changes made by DISH or its Affiliates to their internal systems that interact with the Ting Platform or Hosted Service. MVNE SP will only make Critical Changes without obtaining DISH's consent if failure to do so would result in severe impairment of its ability to deliver the Services, and will only give DISH less than thirty (30) says' prior notice if failure to act within a shorter period would cause severe impairment to MVNE SP's ability to deliver the Services. If a Critical Change is necessary, MVNE SP will give DISH as much notice as reasonably possible and will consult with DISH in advance where it is reasonably able to do so. If MVNE SP implements a Critical Change, unless such change is based on item (iii) of this Section 2.8.2, or such Critical Change was implemented and has an industry-wide impact and providers of services similar to those provided by MVNE SP under this Agreement are similarly materially adversely impacted, DISH may notify MVNE SP in writing within thirty (30) days of MVNE SP implementing such change that it intends to terminate this Agreement if MVNE SP does not remedy the material adverse impact on the Services within sixty (60) days of DISH providing written notice of its intention to terminate the Agreement, provided that if remedying the material adverse impact requires more than sixty (60) days to remedy despite diligent efforts of MVNE SP to remedy such material adverse impact, MVNE SP shall have a longer period of time reasonably required to complete such remedy but in no event more than a total of one hundred twenty (120) days, provided further that MVNE SP identifies in writing to DISH why remedying will take longer than sixty (60) days to remedy and includes an estimate of how long it will take to remedy, and that MVNE SP works diligently to complete such remedy as soon as reasonably practicable. If MVNE SP fails to remedy such material adverse impact on the Services in accordance with this Section 2.8.2, DISH shall be entitled to terminate this Agreement within ninety (90) days after expiration of the sixty (60) day period (or longer remedy period as provided above) to remedy such material adverse effect or such longer period as permitted in this Section 2.8 with immediate effect upon written notice to MVNE SP without termination liability, provided that DISH will remain liable for payment of all Fees incurred pursuant to this Agreement due through the date of actual termination of the Agreement.

**2.9. Reliance on Access to Underlying Carrier's Systems**. Nothing in this Agreement requires MVNE SP to provide any of the Services to DISH, its Affiliates or its End Users solely to the extent Underlying Carrier prevents or impairs MVNE SP's access to the Underlying Carrier's systems. However, if MVNE SP is prevented from accessing or impaired in its access to the Underlying Carrier's systems and this impacts its provision of the Services, MVNE SP will promptly contact the Underlying Carrier regarding the issue and, unless no action is required by MVNE SP to restore unimpaired access, work with the Underlying Carrier to expeditiously resolve the issue.

**2.10.Suspension of Service.** Notwithstanding anything in the Agreement to the contrary, and without prejudice to any other rights MVNE SP may have under this Agreement or otherwise, including MVNE SP's rights to terminate the Agreement and without limiting DISH's obligation to make payments or Prepayments due under this Agreement, MVNE SP may, without liability upon prior notice to DISH of not less than ten (10) Business Days, suspend its provision of the portion of the Services directly impacted by any of the following:

2.10.1. Notification from federal or state officials or from law enforcement agencies of fraud, abuse or other misuse of the Services by DISH or DISH Subscribers provided that MVNE SP may provide less than ten (10) Business Days' notice or no notice if directed to do such by federal or state officials or from law enforcement agencies, in which case MVNE SP will give notice as soon as permitted by the relevant official(s) or agency;

2.10.2. Fraudulent or unauthorized use of the Facilities, Equipment, Customer Offerings, Services or the Underlying Carrier's services, including Fraudulent Usage; or

2.10.3. For failure to pay any Invoices or Fees consistent with the terms of Section 9 of this Agreement provided MVNE SP provides in addition to the ten (10) Business Day notice provided for in this Section 2.10, thirty (30) days prior written notice to DISH from MVNE SP's of MVNE SP's intent to suspend Services for failure to pay where such notice specifically identifies the outstanding invoices and Fees due. The ten (10) Business Day and thirty (30) day periods in the immediately preceding sentence shall be counted consecutively and not concurrently. In no event will MVNE SP suspend services for failure to pay without acknowledgement in writing from DISH that notice of non-payment has been received by DISH. Suspension of Services will not limit, waive or otherwise affect MVNE SP's other rights and remedies under this Agreement, in equity or at Law.

2.10.4. Upon resolution of the suspension causing issue, MVNE will immediately resume the provision of Services. If an Underlying Carrier contacts MVNE SP directly and requests that Underlying Carrier suspend the Services with respect to any DISH Subscriber, MVNE SP may suspend the Services for the relevant DISH Subscriber only if the request is for one or more of the reasons set forth in an Underlying Carrier Suspension Authorization signed by DISH, in the form attached hereto as **Schedule M**. With respect to any given Underlying Carrier, DISH may at any time and from time to time replace an Underlying Carrier Suspension Authorization with a superseding revised Underlying Carrier Suspension Authorization, or withdraw by written notice an Underlying Carrier Suspension Authorization. Any Underlying Carrier Suspension Authorization that is withdrawn or superseded will have no prospective effect, and MVNE SP may not suspend services for the reasons set forth therein without DISH's written consent. MVNE SP will immediately notify DISH of any request by an Underlying Carrier to suspend or terminate any Services under this Agreement. If MVNE SP is not authorized under an Underlying Carrier Suspension Authorization to immediately suspend Service to any impacted DISH Subscriber, MVNE SP will work with DISH to determine if suspension is appropriate, and any such suspension will require DISH's approval in its sole discretion.

**2.11.Order Forms**. At any time and from time to time during the Term, additional products and/or services may be provided by MVNE SP to DISH pursuant to an Order Form executed by Authorized Representatives of each of the Parties (each referred to herein as an "**Order Form**") or as otherwise specified in this Agreement or necessary for the use of any Services described herein. Each Order Form will be in substantially the form attached to this Agreement as **Schedule G**, which **Schedule G** is hereby attached to and incorporated in this Agreement by this reference in its entirety. Notwithstanding the foregoing, in the event that the Term of this Agreement is renewed or extended or DISH elects to renew or extend any Service Term in accordance with Section 12, below, then **(a)** MVNE SP will provide a quote to DISH for the Services to be renewed pursuant to the terms and conditions of the applicable Order Form; **(b)** following receipt of such quote, DISH will review and issue a purchase order to MVNE SP; and **(c)** MVNE SP will invoice DISH for the Services in accordance with the applicable Order Form. For clarity, any terms and/or conditions in the Order Form that are inconsistent with the provisions of this Agreement shall be of no force or effect.

**2.12.** **Support Services; Service Level Agreements.** MVNE SP will provide the Services in accordance with any and all service level agreements ("**SLAs**") and support obligations and requirements set forth in **Schedule B**.

**2.13.** **Product Roadmap.** The Parties acknowledge and agree that each Party benefits from open communication about the Services. DISH and MVNE SP may, subject to the Parties' obligations of confidentiality set forth in this Agreement, share with one another product roadmaps that are relevant to the Parties' future business relationship and that will permit the Parties to take into account future needs while planning future products and services. Upon DISH's request, which may be made at any time and from time to time during the Term, MVNE SP shall promptly provide to, and discuss with, DISH and/or the DISH Affiliates MVNE SP's one (1) year product roadmap (which product roadmap will include, without limitation, as much reasonable detail as available to MVNE SP related to the planned functionality of its current and future products and services and as much detail regarding product roadmaps and market outlooks as available to MVNE SP at such time) applicable to the Services.

**2.14.** **[REDACTED]**

**2.15.** **[REDACTED]**

2.15.1. **[REDACTED]**

2.15.2. **[REDACTED]**

2.15.3. **[REDACTED]**

**2.16.** **Fraudulent Usage**. MVNE SP will be liable and responsible for Fraudulent Usage to the Underlying Carrier or DISH solely to the extent that such Fraudulent Usage results from the acts or omissions of MVNE SP. To the extent that any Fraudulent Usage occurs other than due to the acts or omissions of MVNE SP, as between DISH and MVNE SP, DISH shall be liable to the Underlying Carrier for any charges, costs or liabilities with respect to such Fraudulent Usage.

## 3 MVNE SP RESTRICTIONS.

**3.1** **Solicitation of Customers.** MVNE SP hereby covenants that, during the Term and for a period of three (3) years thereafter, MVNE SP will not: **(a)** produce, place, display or use any advertising or marketing material that attempts to persuade DISH Subscribers to cancel any services provided by DISH and/or an Affiliate of DISH; or **(b)** convert, target, solicit or otherwise incentivize (or assist any other person or entity who MVNE SP actually knew or reasonably should have known intended to convert, target, solicit or otherwise incentivize) any DISH Subscriber to become a subscriber to the services of any competitor of DISH Notwithstanding the foregoing, but subject to and without limitation of MVNE SP's rights under Section 5.4 of the Purchase Agreement, nothing in this Section 3 shall: (i) prohibit MVNE SP from soliciting, targeting, advertising to, promoting to or marketing to any DISH Subscribers with respect to MVNE SP's fiber based voice, video, internet - and media-related services provided that MVNE SP will not, and will not cause or permit anyone to, use any DISH Data for any such purposes; and (ii) MVNE SP may not target DISH Subscribers as DISH Subscribers for such purposes.

**3.2** **Subscriber Information**. MVNE SP acknowledges and agrees that Subscriber Information as between MVNE SP and DISH with respect to the delivery of services to DISH Subscribers is proprietary to DISH and shall be used by MVNE SP and its Affiliates solely to provide the Services and for other purposes only as expressly provided for in this Agreement and shall not be used for any other purposes. MVNE SP may not, directly or indirectly: (i) use any Subscriber Information for the direct or indirect benefit of any individual or entity other than DISH; (ii) use any Subscriber Information for the purpose of soliciting, or permit any others to solicit, any person or entity to subscribe to any services similar to those offered by DISH that are enabled by the Services delivered by MVNE SP or its Affiliates to DISH pursuant to this Agreement; (iii) promote the sale or lease of any Device based on the use of Subscriber Information; or (iv) disclose any Subscriber Information to any third party for any reason (or for no reason whatsoever) without the express prior written consent of DISH, which consent may be withheld by DISH in its sole and absolute discretion for any reason or for no reason whatsoever; provided, however, that nothing shall prohibit MVNE SP from disclosing Subscriber Information as required by Law.

**3.3** **Injunctive Relief**. MVNE SP acknowledges and agrees that the breach of this Section 3 will result in substantial and irreparable harm and injury to DISH and its Affiliates for which monetary damages alone would be an inadequate remedy, and that damages are difficult to accurately measure. Accordingly, MVNE SP agrees that DISH will be entitled to obtain immediate injunctive relief, as well as any other equitable relief allowed by the federal or state courts. The foregoing remedy of injunctive relief is agreed to without prejudice to by MVNE SP and DISH may exercise any other rights and remedies it may have at law, in equity, or under contract including, without limitation, this Agreement, all of which DISH hereby expressly reserves.

## 4 OBLIGATIONS.

**4.1** **Employee Screening**. MVNE SP shall screen MVNE SP's Personnel prior to causing them to perform the Services to ensure that each of MVNE SP's Personnel is fully qualified to perform the Professional Services, and if required by any Laws, is validly licensed and has obtained all requisite permits to perform such Services for DISH.

**4.2** **Subcontractors; Solicitations**.

**4.2.1** **Subcontracting**. MVNE SP must obtain DISH's prior written consent to employ subcontractors where such subcontractors will: (i) access, use or transfer "Customer Proprietary Network Information," as that term is defined in 47 C.F.R. Section 222(h)(1); (ii) access, use or transfer any DISH Subscriber Information; or (iii) provide, operate, or manage services where the failure of such services would disrupt DISH's or DISH Subscriber's use of the Services. If MVNE SP desires to subcontract any of the Services under this Agreement to any third party, then MVNE SP shall enter into an agreement with such third party under terms and conditions materially similar to, and no less strict than, the terms and conditions provided in this Agreement, or submit such subcontractor agreement to DISH for review and approval prior to engagement of such subcontractor. For purposes of this Section 4.2.1, the Parties acknowledge and agree that the subcontractors identified in **Schedule L** are approved by DISH consistent with this Section. MVNE SP is responsible and liable for any subcontractor's acts or omissions (including, without limitation, the performance of the Services and compliance with the terms and conditions of this Agreement) on the same basis as if such act or omission had been the act or omission of MVNE SP.

**4.2.2** **Solicitation of Employees**. MVNE SP agrees not to solicit employment of any employee of DISH or DISH's Affiliates, or communicate in any manner with such employees about employment opportunities with any third party, during the Term and for a period of twelve (12) calendar months following the expiration or earlier termination of this Agreement, without DISH's prior written consent in each instance.

**4.3** **[REDACTED]**

**4.4** **[REDACTED]**

**4.5** **[REDACTED]**

**4.6** **Integration and Implementation Information.** DISH will provide, or arrange to allow MVNE SP to obtain directly, technical information necessary for the technical interface between DISH and the Underlying Carrier to enable MVNE SP to provide the Services. DISH provides consent to MVNE SP to engage in all activities to allow MVNE SP to integrate and implement MVNE SP's and DISH's systems to comply with all technical interface information provided by the Underlying Carrier. DISH acknowledges and agrees that MVNE SP is constrained by the capabilities and functionalities of the Underlying Carrier's systems as well as the right Underlying Carrier reserves to modify, upgrade, decommission or engage in other acts that may have an adverse impact on MVNE SP's ability to provide the Services or DISH's Customer Offerings, in whole or in part.

**4.7** **Customer Offering.** DISH represents and warrants that it has all legal rights and authorization to use, whether by law, equity or contract, to: (i) use any brand names DISH intends use in connection with DISH or DISH's Customer Offerings (collectively, the "**Approved Brands**"); (ii) **[REDACTED]**; (iii) and to distribute and sell DISH's Customer Offerings through the distribution channels it directs MVNE SP to so distribute and sell. DISH will not make any representations or warranties to any third parties (including, without limitation, End Users) on MVNE SP's behalf.

**4.8** **Personnel**.

**4.8.1** Each Party is fully responsible for all acts and omissions of its Personnel and will require that Personnel adhere to all terms and conditions of this Agreement. Any act or omission of any Personnel of a Party that would, if such act or omission were of such Party, constitute a breach of this Agreement will be considered a breach of this Agreement by such Party, and will entitle the non-breaching Party to pursue all rights and remedies against the breaching Party and any Personnel it may have under the Agreement or under the law including, but not limited to, indemnification by the breaching Party.

**4.8.2** Each Party that has Personnel employed or contracted to perform services for the other Party assumes full responsibility for such Personnel's acts, daily direction, and control. All Personnel are at the sole expense of the employing or contracting party, and the employing or contracting Party is solely responsible for any and all liabilities, employment benefits, and withholding issues relating to those personnel including, but not limited to, worker's compensation, disability benefits, unemployment insurance, withholdings, income taxes, and social security.

**4.9 [REDACTED]**

**5. SERVICE AGREEMENT AND COMMUNICATIONS.** Except as otherwise provided by applicable Law (including releases or disclosures only to the extent necessary or in good faith determined to be reasonably necessary under the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended) both DISH and MVNE SP agree:

**5.1.** To submit to the other Party all press releases and other publicity or marketing matters wherein the other Party's names or marks are mentioned or language from which the connection of said names or marks therewith may be inferred or implied; and

**5.2.** Not to publish such press releases, publicity or marketing matters without the other Party's prior written approval.

**6. REPRESENTATIONS AND WARRANTIES.**

**6.1. REDACTED]**

**6.2. [REDACTED]**

**6.3. Mutual Representations, Warranties and Covenants**. Each Party represents and warrants to the other that: **(a)** it is duly organized, validly existing and in good standing under the Laws of the state and/or country under which it is organized; **(b)** it has the power and authority to enter into this Agreement and to perform fully its obligations hereunder; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and **(d)** the obligations created by this Agreement, insofar as they purport to be binding on it, constitute legal, valid and binding obligations enforceable in accordance with their terms.

**6.4. WARRANTY DISCLAIMER. EXCEPT AS SET FORTH IN THIS AGREEMENT, NEITHER PARTY NOR ITS AFFILIATES MAKE ANY WARRANTIES, EITHER EXPRESSED OR IMPLIED, STATUTORY OR OTHER TO THE OTHER PARTY, ITS AGENTS, OR SUBCONTRACTORS WITH RESPECT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT, TITLE, AND QUIET ENJOYMENT AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.**

**7. EQUIPMENT**

**7.1. MVNE SP's Equipment.** MVNE SP shall use and pay for MVNE SP's and MVNE SP's Personnel's own materials, tools, equipment and administrative support services necessary for MVNE SP to perform the Services. MVNE SP shall, to the extent practicable, keep MVNE SP's tools, equipment, materials, drawings and the like separate from any DISH property, and will not remove any DISH property from the Location without the prior written approval by an Authorized Representative of DISH. MVNE SP is solely responsible for the safekeeping of MVNE SP's property stored or used at the Location.

**7.2. DISH's Equipment.** Notwithstanding anything to the contrary set forth in Section 7.1 above, any materials, tools or equipment furnished to MVNE SP by DISH in connection with this Agreement will be deemed bailed to MVNE SP for mutual benefit, and title thereto will at all times remain in DISH. MVNE SP agrees to pay for all such materials, tools and equipment spoiled by MVNE SP or not otherwise satisfactorily accounted for.

**7.3.Devices.**

7.3.1. MVNE SP will provide compatibility verification for all Devices used for DISH Subscribers to determine whether or not each Device can be deployed on the DISH MVNO and/or MNO networks.

*7.3.2. Approved Devices.* MVNE SP and DISH will implement a process with DISH to authorize MVNE SP to obtain directly from the Underlying Carrier a list of approved Devices that have been previously been tested against the Underlying Carrier's requirements for wholesale customers ("**Approved Devices"**).

*7.3.3. Authorization*. MVNE SP will have no liability for DISH's or DISH Subscribers' Devices failure to meet industry or certification standards for compatibility or regulatory requirements associated with DISH's Customer Offerings, or for Devices that do not work on the Underlying Carrier Network or do not work properly, except to the extent caused by any act(s) or omission(s) of MVNE SP, its Affiliates or any MVNE Personnel.

*7.3.4. SIM Card Acquisition.* DISH will be solely responsible for purchasing SIM Cards, and MVNE SP will have no liability for the purchase price of SIM Cards purchased by DISH. MVNE SP and DISH will each test and approve an initial SIM Card profile as provided by the SIM Card Vendor. MVNE SP will coordinate with DISH and any Underlying Carrier to provide SIM Card vendors the necessary input file(s) for manufacture of the SIM Cards. The SIM card vendors will be responsible for providing MVNE SP and DISH the necessary output files for use of the SIM Cards on the Underlying Carrier Facilities.

**7.4. Operational Reconciliation.** To the extent necessary**,** each calendar month MVNE SP will obtain from the Underlying Carrier or DISH will provide to MVNE SP a list of all MSISDN and SIM Card combinations in the Underlying Carrier's systems and records, and for each MSISDN and SIM Card combination, (i) status (i.e., active, suspended or deactivated), and (ii) the features provisioned (e.g., Voice Service, SMS Service, Data Service) as of the day of reconciliation (the "**Reconciliation Report**"). If DISH's internal records and systems are not consistent with the Underlying Carrier's records and systems, then MVNE SP will resolve DISH's records and systems within fifteen (15) business days and submit an updated Reconciliation Report either directly to the Underlying Carrier or to DISH for DISH to submit to the Underlying Carrier. For clarification purposes, the Reconciliation Report is for operational purposes only. Notwithstanding anything in this section, MVNE SP assumes no liability whatsoever for any invoices, bills or charges issued by the Underlying Carrier to DISH on the basis of the Reconciliation Reports or any other activities it engages in on behalf of Customer.

**8. GOVERNMENT REGULATION AND LAWFUL INTERCEPTS.**

**8.1. Compliance With Laws and Regulations**. Each Party represents, warrants, and covenants to the other Party that it will comply in all material respects with all applicable local, state and federal laws and all applicable governmental rules, regulations and ordinances including**,** but not limited to, all electronic surveillance laws, any and all state public utility commission registrations, Taxes and Charges, maintaining DISH Subscriber's call detail records as required by relevant Law and implementing rules, the Communications Act of 1934, as amended, international long distance (i.e., "Section 214 authority"), and the FCC implementing rules and orders (e.g., Customer Proprietary Network Information ("**CPNI**") rules, compliance programs, certifications and filings), and that neither Party will cause the other Party to be in material violation of any applicable laws. MVNE SP has no responsibility for ensuring that all Numbers are assigned, used and disconnected in accordance with all applicable laws, regulations, and industry numbering resource guidelines.

**8.2.** **Subpoenas.** Each Party will comply with lawful process and will cooperate in good faith in responding to lawful process. DISH will be responsible for providing notice or engaging in other activities consistent with its user agreements with its End Users.

**8.3.** **Lawful Intercepts.** Each Party agrees to cooperate with the other regarding government requests for lawful intercepts of DISH Subscribers. MVNE SP is authorized to act on behalf of DISH in responding to requests for lawful intercepts with regard to DISH Subscribers. DISH understands and agrees that lawful intercepts may have different available information in Roaming situations and that MVNE SP's primary responsibility will be for providing call detail records as directed by DISH.

**9. FEES, PAYMENT, REPORTING, TAXES.**

**9.1.** **Schedule of Service Rates, Charges, Fees and Other Amounts.** In consideration for the Service to be provided in this Agreement, DISH will pay MVNE SP the amounts for Service set forth in **Schedule C (Pricing Schedule)** of this Agreement **[REDACTED].** Any and all Fees payable based on a monthly, quarterly or yearly basis shall be pro-rated for any partial month, quarter or year, as applicable. The Fees set forth in this Agreement will be the only Fees payable by DISH or its Affiliates with respect to the Services.

**9.2.** **[REDACTED]**

9.2.1. **[REDACTED]**

9.2.2. **[REDACTED]**

9.2.3. **[REDACTED]**.

**9.3.** **Disputes.** If DISH elects to disputes charges appearing on an Invoice, DISH must do so within twelve (12) months of the date of the Invoice on which the disputed charges first appear. DISH must specifically identify in writing the invoice by date, by invoice number, the specific charges it disputes and the reason for disputing such charges. DISH waives its rights to dispute charges if it fails to comply with this Section 9.3. Amounts subject to a bona fide dispute will not be subject to late payment fees until MVNE SP completes its investigation of the disputed charges. If the Parties are able to resolve the dispute, DISH will pay the charges due in connection with such resolution within sixty (60) days of such resolution. If DISH elects to continue to dispute charges after MVNE SP has completed its investigation, DISH shall comply with this Agreement's dispute resolution procedures. DISH shall not be responsible for any charges invoiced more than twelve (12) months after the close of the billing period in which the charges were incurred.

**9.4.** **Payment**. All payments (including prepayments) by DISH will be via an electronic funds transfer in the format designated by MVNE SP from time to time or, at DISH's option, by check sent to the following address or such other address as MVNE SP may notify DISH in writing in accordance with Section 18.3 from time to time.

**9.5.[REDACTED]**

**9.6.[REDACTED]**.

## 10. TAXES AND GOVERNMENTAL FEES

### 10.1. Federal and State Taxes

10.1.1 MVNE SP shall be responsible for all taxes (including state, federal, territory and foreign income and withholding taxes) asserted or levied on any amounts accrued, owed or paid to MVNE SP under this Agreement.

10.1.2 Within 15 days after the Effective Date, MVNE SP shall provide DISH with an IRS Form W-8 or W-9 or equivalent state, territory or foreign withholding documentation, as applicable, and an employer identification or other tax identification number, as applicable.

10.1.3 Unless MVNE SP delivers proof to DISH (satisfactory to DISH) that payments to MVNE SP are exempt from withholding taxes, or subject to a reduced rate of withholding, in each case, as documented on the applicable withholding documentation, DISH may withhold, from payments payable to MVNE SP under this Agreement, applicable withholding taxes at the highest rate under applicable tax Law. In the event that DISH at any time, whether as a result of a change in laws or otherwise, determines that it is required to withhold taxes, it shall provide MVNE SP with the requisite documentation in order to permit MVNE SP to support a claim for withholding tax credits. In no event will DISH be required to gross-up or otherwise compensate MVNE SP for such withholdings.

10.1.4 Resale. MVNE SP acknowledges and agrees that: (a) the Services purchased by DISH are for resale to one or more Affiliate(s) of DISH; (b) MVNE SP may not charge or collect sales tax from DISH, provided that DISH provides MVNE SP with all relevant documentation in support of such tax exemption as requested by MVNE SP from time-to-time; and (c) all terms and conditions of this Agreement will be fully enforceable by the Affiliate(s) to which DISH reallocates the Services as if such entity were a party to this Agreement. MVNE SP acknowledges that DISH has provided to MVNE SP resale certificates with respect to the resale of the Services. At MVNE SP's request on an annual basis, DISH will provide to MVNE SP updated resale certificates. For clarity, solely with respect to the rights and licenses provided pursuant to this Agreement, a "resale" means a transfer of such rights and licenses (e.g., a sublicense) and not a conveyance of ownership. For purposes of clarification, nothing in this Section 10.1.4 relieves DISH of any obligations it has pursuant to Section 18.9 (Assignment). If for any reason the resale certificates are invalid, DISH will be responsible for:(i) payment of any sales or use taxes due as a result of such invalidity, together with any fees, interest or penalties.

10.2 **Federal Universal Service Support**. Prior to or simultaneous with the execution of this Agreement, DISH and/or its Affiliates agree to execute the Federal Universal Service Fund ("**FUSF**") certification attached hereto as **Schedule H**. Further, DISH and/or its Affiliates agree to deliver to MVNE SP and/or its Affiliates an updated FUSF certification within twenty (20) days of any change in its FUSF contributor status. Provided that DISH and/or its Affiliates comply with the FUSF contributor certification requirement in this Section 10.2, and indicates in the certification that it contributes to the FUSF in connection with the Services, MVNE SP and/or its Affiliates will not assess FUSF surcharges on DISH and/or its Affiliates invoices. However, DISH and/or its Affiliates agree that, if it fails to provide a timely and complete FUSF certifications, or if the FUSF certifications provided are outdated, or inaccurate or have some other defect that renders them ineffective, or if the FCC or the Universal Service Administrative Company ("**USAC**") determines that MVNE SP and/or its Affiliates are otherwise liable for FUSF contributions based on the Services, MVNE SP and/or its Affiliates may assess DISH and/or its Affiliates an amount necessary to recover the amount of MVNE SP's and/or its Affiliates FUSF contribution that MVNE SP and/or its Affiliates owe the USAC and MVNE SP and/or its Affiliates may also assess any resulting penalties or interest assessed by USAC or the FCC or other federal government agencies. For purposes of clarification, this surcharge may be assessed on DISH and/or its Affiliates to recover amounts that MVNE SP /or its Affiliates owe to the FUSF for contributions that MVNE SP and/or its Affiliates should have made based on the provision of Services to DISH and/or its Affiliates for all past periods as determined by the FCC or USAC, any and all penalties and interest, including any imposed by other federal agencies, as well as include FUSF surcharges on a going-forward basis based on the Services provided to DISH and/or its Affiliates pursuant to this Agreement.

10.3 **Cooperation**. The Parties agree to reasonably cooperate to minimize the application of any taxes and fees applicable to the Services provided hereunder to the fullest extent of the Law.

## 11 INDEMNIFICATION

11.1 **MVNE SP'S Indemnification**. Except for IP Claims, MVNE SP shall indemnify, defend and hold DISH and DISH's Affiliates, and its and their respective officers, directors, members, managers, consultants, employees, agents and shareholders, and its and their respective assigns, heirs, successors and legal representatives (collectively, the "**DISH Indemnitees**") harmless from and against, any and all Claims arising out of or in connection with MVNE SP's provision of the Services, provided that such Claims are not brought by a DISH Affiliate, that relate to, arise out of or are incurred in connection with: **(a)** MVNE SP's gross negligence or willful misconduct; **(b)** MVNE SP's unlawful acts or omissions (including those of MVNE SP's Personnel); **(c)** MVNE SP's acts or omissions that directly cause DISH and/or DISH's Affiliates to violate any applicable Law and only if DISH and/or DISH's Affiliates acts or omissions do not contribute to such violation of applicable law; **(d)** MVNE SP's breach of any representation warranty or covenant of this Agreement, provided that such is expressly provided for by this Agreement; **(e)** the failure of MVNE SP to comply with, or any actual or alleged violation of, any Law; **(f)** any Claim brought by MVNE SP's Personnel; **(g)** Claims by an Underlying Carrier arising from the failure of MVNE SP to comply with Section 2.10.4 or with DISH's written instructions to MVNE SP to suspend Services to any DISH Subscribers where an Underlying Carrier alleges Fraudulent Usage by such DISH Subscriber(s); **(h)** Claims brought by the Universal Service Administration Company against DISH for failing to accurately calculate its FUSF liabilities directly related to DISH Subscribers, except to the extent that: (1) DISH's actions or omissions have contributed to the inaccuracies of the reports provided by MVNE SP to DISH; (2) DISH is only entitled to rely on reports specifically requested by DISH limited to DISH Subscribers where DISH notifies MVNE SP that DISH will rely on such reports for the purpose of calculating DISH's FUSF contribution obligations for DISH Subscribers; (3) DISH reasonably relied upon such reports; and (4) such inaccuracies are unrelated to how DISH completed the relevant reporting forms or classified DISH Subscriber revenues as USF assessable or non-assessable; or **(i)** Claims brought by law enforcement agencies or any other governmental agency or entity against DISH for its failure or delay to provide information lawfully requested of DISH concerning DISH Subscribers due to MVNE SP failing to provide such information that DISH reasonably requests and reasonably relied upon from MVNE SP (unless DISH is already in possession of such information) that is necessary to enable DISH to comply with any subpoenas, other lawful process, or other lawful intercept Laws.

11.2 **MVNE SP's Indemnification for IP Claims**. MVNE SP shall indemnify, defend and hold the DISH Indemnitees harmless from and against, any and all IP Claims, provided that such IP Claims are not brought by a DISH Affiliate, provided further however that MVNE SP shall have no obligations under this Section 11 with respect to IP Claims to the extent directly caused by:

11.2.2 any DISH Materials provided by DISH or its Affiliates to MVNE SP;

11.2.3 use of any Deliverables in combination with any materials or equipment not supplied to DISH by MVNE SP, except **(a)** where the combination is required for DISH to reasonably use the Deliverables consistent and in accordance with the Specifications, **(b)** as expressly recommended for DISH's use by MVNE SP in writing, or **(c)** if accepted by MVNE SP in the applicable Order Form or Statement of Work as recommended for DISH's use with the Deliverables; or

11.2.4 any modifications or changes made to the Deliverables by or on behalf of any Person other than by or on behalf of MVNE SP or MVNE SP Personnel, unless made at the written direction or written recommendation of MVNE SP Personnel.

11.3 **IP Claims**. If DISH or its any of its Affiliates becomes subject to an IP Claim, MVNE SP shall, at its option and expense, **(a)** procure for DISH or its Affiliates the right to use the Services; **(b)** replace the Services with equivalent, non-infringing Services; or **(c)** modify the Services so they become non-infringing, provided that the Services so modified shall be substantially equivalent to the Services in features, functionality and performance. In the event options (a)-(c) above are unsuccessful after MVNE SP or its Affiliates exercise their commercially reasonable efforts, then either Party may terminate this Agreement or, at such Party's option, the infringing Services, by written notice to the non-terminating Party. For the avoidance of doubt, this Section 11.3 does not limit MVNE SP's indemnification obligations under Section 11.2.

11.4 **DISH's Indemnification**. DISH shall indemnify, defend and hold MVNE SP and its Affiliates, and its and their respective officers, directors, members, managers, consultants, employees, agents and shareholders, and its and their respective assigns, heirs, successors and legal representatives (collectively, the "**MVNE SP Indemnitees**") harmless from and against, any and all Claims, provided that such Claims are not brought by a MVNE SP Affiliate, that relate to, arise out of or are incurred in connection with: **(a)** DISH's gross negligence or willful misconduct; **(b)** DISH's unlawful acts or omissions (including those of DISH's Personnel); **(c)** DISH's acts or omissions that directly cause MVNE SP and/or MVNE SP's Affiliates to violate any applicable Law and only if MVNE SP and/or MVNE SP's Affiliates acts or omissions do not contribute to such violation of applicable Law; **(d)** DISH's breach of any representation or warranty or covenant of this Agreement, provided that such is expressly provided for by this Agreement; **(e)** the failure of DISH to comply with, or any actual or alleged violation of, any Law; **(f)** Claims by Underlying Carrier based on the failure of MVNE SP to suspend Services to one of more End Users due to alleged Fraudulent Usage by such End User(s) where MVNE SP has complied with Section 2.10.4 or acts in compliance with instructions from DISH; **(g)** the failure of DISH to pay or comply with its FUSF obligations except to the extent such failure is due to one of the conditions identified in Section 11.1(h); or **(h)** Claims by End Users that MVNE SP's compliance with subpoenas, other lawful process, or other lawful intercept Laws violates any agreement between such End User and DISH or its Affiliate or DISH's privacy policy or any other End User agreements for the relevant Customer Offering.

11.5 **Indemnification Procedures**

11.5.1 Promptly after becoming aware of any Claim with respect to which a Party has an obligation to indemnify the other Party (an "**Indemnified Claim**"), the Party seeking indemnification (the "**Indemnified Party**") must give notice of the Indemnified Claim to the other Party (the "**Indemnifying Party**"), accompanied by a copy of any written documentation regarding the Indemnified Claim received by the Indemnified Party. The Indemnifying Party shall have the right to select counsel of the Indemnifying Party's choice, direct the litigation and negotiate a settlement; *provided*, *however*, that any such settlement may not impose any obligation whatsoever on the Indemnified Party that is not wholly discharged or dischargeable by the Indemnifying Party and may not impose any conditions or obligations on the Indemnified Party (including, without limitation, any admission by or on behalf of the Indemnified Party or any terms or conditions that do or reasonably could result in any admission by or on behalf of the Indemnified Party) other than the payment of monies that are readily measurable for purposes of determining the monetary indemnification or reimbursement obligations of the Indemnifying Party, unless the Indemnified Party provides the Indemnifying Party with its prior written consent. The Indemnified Party may participate in and observe the proceedings at its own cost and expense.

11.5.2 In the event that the Indemnifying Party: (**a**) fails to notify the Indemnified Party of the Indemnifying Party's intent to take any action within ten (10) days following receipt of a notice of an Indemnified Claim (if such failure to notify materially prejudices the Indemnified Party's rights or has a material, adverse impact on such Party's obligations hereunder); or (**b**) fails to proceed in good faith with the resolution of the Indemnified Claim, then (**i**) the Indemnified Party may, with prior written notice to the Indemnifying Party and without waiving any rights to indemnification, defend or settle the Indemnified Claim without the prior written consent of the Indemnifying Party; and (**ii**) the Indemnifying Party shall reimburse the Indemnified Party on demand for all damages incurred by the Indemnified Party in defending or settling such Indemnified Claim.

11.6**Exclusions.**

11.6.1 Notwithstanding anything to the contrary in this Agreement, the Indemnifying Party is not obligated to indemnify, hold harmless, or defend the Indemnified Party against any Indemnified Claim (whether direct or indirect) to the extent such claim or corresponding losses arise out of or result from, in whole or in part, the Indemnified Party's gross negligence or more culpable act or omission (including recklessness or willful misconduct) or bad faith failure to materially comply with any of its material obligations set forth in this Agreement.

11.6.2 DISH covenants to MVNE SP that DISH shall not exercise any other rights it may have under Law, this Agreement or at equity based on or arising out of any IP Claim until such time as such IP Claim has been resolved consistent with this Section 11. Notwithstanding the foregoing, DISH may exercise any such rights to the extent necessary to preserve any such claims under applicable statutes of limitation.

**12 TERM AND TERMINATION.**

**12.1 Initial Term**. The term of this MSA will commence on the Effective Date and, unless terminated sooner by either Party in accordance with the terms and conditions of this Agreement, will expire on the four (4) year anniversary of the Effective Date (the "**Initial Term**"); provided, however, that in the event that the term of any Order Form (each, a "**Service Term**") as set forth in such Order Form, extends beyond the Initial Term and any renewal term (together, the "**Term**"), then the Term will be automatically extended through the date of expiration or sooner termination of such Order Form solely with respect to any such Order Form(s).

**12.2 Initial Term Extension. [REDACTED].**

**12.3 Automatic Renewal**. The Term of this MSA will automatically extend from year to year following the Initial Term unless terminated by either Party upon written notice to the other Party no later than ninety (90) days prior to the expiration of the Initial Term or renewal term, as applicable; provided, however, that the automatic renewal of this MSA will not serve to extend any particular Service Term. MVNE SP will notify DISH ninety (90) days' prior to the expiration of any Service Term, which notice will also state DISH's right to renew such Order Form in accordance with this Section 12.3 and/or the applicable Order Form (the "**Expiration Notice**"). In the event that DISH elects to renew or extend any Service Term, then the terms and conditions of such Order Form shall remain in full force and effect without modification.

**12.4 Transition Period**.

12.4.1 In the event that either Party sends a written notice to the other Party terminating this Agreement in accordance with the termination provisions set forth in this Agreement or any applicable Order Form (a "**Termination Notice**"), or MVNE SP sends the Expiration Notice, or this Agreement otherwise terminates or expires for any reason, then, with respect to this Agreement, any applicable Order Form or other written agreement pursuant to which DISH or a DISH Affiliate is receiving Services, DISH may, in its sole and absolute discretion and without prejudice to any of its rights under this Agreement, specify in such Termination Notice or, within thirty (30) days following the date on which DISH receives any Termination Notice or Expiration Notice from MVNE SP, specify in a written notice responsive thereto (in either case, the "**Transition Period Notice**") that such termination will not take effect until a date specified in such Transition Period Notice (the "**Termination Effective Date**"). The Termination Effective Date will be the earlier of: (a) any Termination Effective Date specified in a Termination Notice delivered to MVNE SP by DISH or specified in a written notice responsive to a Termination Notice from MVNE SP; and (b) the date that is twelve (12) calendar months following the date of the Transition Period Notice (such period, commencing on the date of the Transition Period Notice and ending on the Termination Effective Date, the "**Transition Period**"). DISH may elect, in its sole and absolute discretion, following thirty (30) days' prior written notice to MVNE SP, to terminate the Transition Period earlier than Termination Effective Date upon not less than thirty (30) days' prior written notice. MVNE SP shall notify DISH within thirty (30) days' following receipt of such notice if such termination will cause MVNE SP to incur any costs or expenses and the amount of such costs and expenses. During the Transition Period, MVNE SP shall continue to provide the Services for the same Fees set forth in the applicable Order Form, pro-rated as necessary for the Transition Period, and shall provide transition and de-conversion services that are reasonably required by DISH or any DISH Affiliate. Any additional hourly-rate services necessary for the transition and de-conversion will be charged at the Professional Services Rates. MVNE SP shall provide any and all information and data, including, without limitation, Business Data or a subset thereof to the extent that MVNE SP does not maintain all Business Data in the ordinary course of MVNE SP's performance in providing the Services, to DISH or a third party designated in writing by DISH.

12.4.2 Notwithstanding any provisions of Section 12.4.1 to the contrary, in the event that the Agreement is terminated due to DISH's material breach, then **(a)** the Transition Period shall not commence until DISH cures such breach or MVNE SP agrees in writing to waive such breach by DISH, **(b)** to the extent that the material breach was due to DISH's failure to pay any charges due pursuant to Section 9, MVNE SP shall have the discretion to require DISH to provide a deposit or prepayment prior to performing pursuant to Section 12.4.1; and **(c)** DISH's failure to comply with this Section 12.4.2 within sixty (60) days of receiving written notice from MVNE SP of its failure to comply with this Section 12.4.2 will result in this Agreement terminating without a Transition Period.

**12.5 Termination**.

12.5.1 *MVNE SP Termination Rights*. MVNE SP may terminate this Agreement and/or any Order Form upon written notice to DISH: **(a)** if DISH breaches any material obligation, representation, warranty or covenant in this Agreement, and such default or breach is not cured within thirty (30) days following DISH's receipt of written notice of such breach from MVNE SP; **(b)** immediately following DISH's filing of a petition in bankruptcy, becoming insolvent, or seeking relief under any Law related to its financial condition or its ability to meet its payment obligations; or **(c)** immediately following any involuntary petition in bankruptcy being filed against DISH, or any relief under any such Law being sought by any of its creditors, unless the involuntary petition is dismissed or the relief is denied within ninety (90) days after it has been filed or sought.

12.5.2 *DISH Termination Rights*. DISH may terminate this Agreement and/or any Order Form upon written notice to MVNE SP: **(a)** if MVNE SP breaches any material obligation, representation, warranty or covenant in this Agreement and such breach is not cured within thirty (30) days following MVNE SP's receipt of written notice of such breach from DISH, provided that, if immediate termination is provided for elsewhere in this Agreement, then immediate termination shall apply to such breach, provided further that such thirty (30)-day cure period shall not apply to any such breaches that are incapable of being cured; **(b)** immediately following MVNE SP's filing of a petition in bankruptcy, becoming insolvent, or seeking relief under any Law related to its financial condition or its ability to meet its payment obligations; **(c)** immediately following any involuntary petition in bankruptcy being filed against MVNE SP, or any relief under any such Law being sought by any of its creditors, unless the involuntary petition is dismissed or the relief is denied within ninety (90) days after it has been filed or sought; or **(d)** in accordance with any other termination right set forth in the applicable Order Form. For the avoidance of doubt, DISH shall pay all undisputed invoices for Services that are performed and accepted prior to the effective date of any termination in accordance with this Agreement, including, without limitation, any applicable Order Form. Following the expiration or earlier termination of this Agreement for any reason or no reason at all, all further rights and obligations of the Parties will cease, except that (i) the Parties will not be relieved of any specific obligations under this Agreement that expressly survive or are to be performed after the expiration or earlier termination of this Agreement and (ii) MVNE SP shall provide DISH a prorated refund of amounts paid for any Services not yet received by the date of termination.

**12.6** **Termination for Cause**. Either Party may terminate this Agreement for cause immediately upon notice to the other party if the other Party attempts to assign this Agreement in violation of Section 18.9 (Assignment).

**12.7** **Termination Upon Mutual Agreement.** The Parties may agree by mutual written agreement to terminate this Agreement.

**12.8** **Survival of Obligations. [REDACTED]**. Termination or expiration of this Agreement will not release either party from any liability that has already accrued to the other party at the time of termination or expiration or that thereafter may accrue with respect to any act or omission prior to termination or expiration, or from any obligation that is stated in this Agreement to survive termination or expiration.

**13 INTELLECTUAL PROPERTY RIGHTS.**

**13.1** As between the Parties, each Party owns and shall retain any and all right, title and interest (including, without limitation, all copyright, patent, trademark, service mark, trade secret and/or other Intellectual Property rights) of such Party and/or its Affiliates in and to any: (a) Intellectual Property owned by such Party and/or its Affiliates prior to the Effective Date (collectively, the "**Pre-Existing Intellectual Property**"); and (b) except for any and all DISH Works and DISH Materials, any and all: (i) derivative works enhancements, modifications, additions or improvements to such Pre-Existing Intellectual Property (including, without limitation, any and all updates, changes, customizations, fixes, releases, versions and derivative works thereof) following the Effective Date; and (ii) other Intellectual Property developed following the Effective Date that, with respect to each of clauses (i) and (ii), is or are developed independently following the Effective Date by or on behalf of such Party and/or its Affiliates (clauses (i) and (ii), together, the "**Developments**"). For clarity, vis-à-vis the Parties, subject to the licenses granted to MVNE SP pursuant to Section 2.4 above, any and all Pre-Existing Intellectual Property of DISH and any DISH Affiliate (including, without limitation, DISH Data, DISH Materials, and/or any content, data or scripts provided by DISH for inclusion in any Service) is, and shall remain, the sole and exclusive property of DISH or such DISH Affiliate, as applicable, and, subject to the rights and licenses granted to DISH pursuant to Section 2.4 above, any and all Pre-Existing Intellectual Property of MVNE SP and any MVNE SP Affiliate (including, without limitation, the Hosted Service and the Ting Platform), is and shall remain the sole and exclusive property of MVNE SP or such MVNE SP Affiliate, as applicable. Notwithstanding this Section 13.1 or any other provision in this Agreement to the contrary, (i) all Intellectual Property Rights in and to DISH Works and DISH Materials shall exclusively remain the sole and exclusive property of DISH or its Affiliate as applicable; and (ii) all Intellectual Property Rights in and to the Hosted Services, and the Ting Platform (excluding any DISH Works or DISH Materials incorporated therein) shall remain the sole and exclusive property of MVNE SP or its Affiliate as applicable.

**13.2** Each Party hereby assigns the other Party all right, title and interest in and to any Developments to the other Party's Pre-Existing Intellectual Property, and agrees to execute and to cause its Affiliates to execute all such further instruments and documents and to take all such further action as the other Party may reasonably require in order to effectuate the terms and purposes of this Agreement. MVNE SP hereby assigns to DISH all right, title and interest in and to DISH Works and DISH Data, and agrees to execute and to cause its Affiliates to execute all such further instruments and documents and to take all such further action as DISH may reasonably require in order to effectuate the terms and purposes of this Agreement. DISH hereby assigns to MVNE SP all right, title and interest in and to the Hosted Service and the Ting Platform, and agrees to execute and to cause its Affiliates to execute all such further instruments and documents and to take all such further action as MVNE SP may reasonably require in order to effectuate the terms and purposes of this Agreement.

**13.3** Each Party ("**Licensor**"), for itself and on behalf of its Affiliates, hereby grants to the other Party ("**Licensee**") a worldwide, royalty-free, irrevocable, perpetual, non-exclusive, sublicensable (solely to Licensee's Affiliates or in connection with the operation of the Licensee's and its Affiliates' businesses), transferable (solely in connection with a sale of all or substantially all of the assets or business to which such license relates) license to use, modify, create derivative works of and otherwise exploit any derivative works, additions, modifications, improvements or enhancements created or developed by or on behalf of Licensee or its Affiliates to any Pre-Existing Intellectual Property of Licensor with respect to any Deliverable as reasonably described in or consistent with a Statement of Work.

**14 CONFIDENTIALITY.**

**14.1** **Confidential Information. "Confidential Information"** of a Party means all information of or relating to either Party or such Party's Affiliate(s) (whether of a business, technical or other nature) that the other party knows or reasonably should know to be confidential or proprietary. Without limiting the generality of the foregoing, Confidential Information includes all information not generally known to the public that relates to the business, technology, finances, budgets, projections, proposals, practices of either Party or its Affiliates, including without limitation the terms of this Agreement, and all information relating to either Party's or its Affiliate's business plans and proposals, marketing plans and proposals, technical plans and proposals, research and development, and pricing plans, and the relationship between the Parties, including its existence. All Confidential Information of a Party will be considered trade secrets of that Party or its relevant Affiliate and will be entitled to all protections given by law to trade secrets. Any and all media (whether written, film, tape, optical, magnetic, opto-magnetic or otherwise) embodying any of the information described above are also Confidential Information. Confidential Information does not include information that: **(a)** was in or entered the public domain through no fault of the receiving party; **(b)** the receiving party can show, by written evidence, was rightfully in the receiving Party's possession without any obligation of confidentiality prior to receipt thereof from the disclosing party; **(c)** is disclosed to receiving Party by a third party legally entitled to make the disclosure without breach of any obligation of confidentiality; **(d)** is required to be disclosed by applicable laws or regulations (but only to the extent required to be disclosed); or **(e)** is independently developed by the receiving Party without reference to or use of any Confidential Information of the other Party.

**14.2** **Non-Disclosure of Confidential Information.** During the Term and at all times thereafter, both Parties including their affiliates and subsidiaries, as well as their respective employees and contractors may not directly or indirectly **(a)** disclose to any Person any Confidential Information of the other party or in any other way publicly or privately disseminate the Confidential Information (except as may be required by either Party to satisfy reporting obligations to a government or regulatory agency); or **(b)** assist, authorize or encourage anyone else to use, disclose, or disseminate any Confidential Information of the other Party. The Parties will: (i) hold all Confidential Information in confidence using the same degree of care that the Party uses to protect its own confidential and proprietary information (but in no event less than reasonable care); (ii) use the Confidential Information only for the purpose of performing obligations under this Agreement; (iii) reproduce any Confidential Information only to the extent necessary to perform its obligations; (iv) restrict disclosure of and access to the Confidential Information only to those employees and contractors who are directly concerned with, and who agree to maintain the confidentiality of, the Confidential Information; and (v) take all precautions necessary and appropriate to guard the confidentiality of the Confidential Information, in the same, but no less than reasonable manner in which the disclosing Party safeguards its own Confidential Information. Each Party is responsible for ensuring compliance with this Section 14.2 by all of its employees and contractors.

**14.3** **Required Disclosures**. Notwithstanding anything to the contrary herein, each Party receiving Confidential Information and its Affiliates may disclose Confidential Information to third parties or contractors of the receiving Party or its Affiliates; provided, that all such Persons have been informed of the confidential nature of the information and directed to keep such information confidential and are subject to binding obligations of confidentiality with respect to such information; provided, further, that any disclosure pursuant to this Section 14.3 shall be made only subject to such procedures the receiving Party determines in good faith are reasonable and appropriate in the circumstances, taking into account the need to maintain the confidentiality of such information.

**14.4** **Return of Records.** No later than thirty (30) days after the termination of this Agreement, both Parties will promptly return or destroy all Confidential Information in its (or its employees' or contractors') possession or control (including all originals and copies of all or any portion of any Confidential Information), provided that each Party and its Affiliates may retain Confidential Information in backups, archives, and disaster recovery systems until such Confidential Information is deleted in the ordinary course, provided that the Party retaining any such Confidential Information shall remain subject to all obligations set forth in this Article 14 until such Confidential Information is fully and permanently deleted. Either Party may direct the other Party as to its election of return or destroy such Party's Confidential Information. Each Party shall inform the other Party in writing of its election to have the other Party return or destroy such Party's Confidential Information. Should a Party fail to notify the other Party of its election within thirty (30) days of termination of this Agreement, then such Confidential Information of the other Party shall be destroyed. An officer of the Party destroying such Confidential Information shall certify in writing to the other Party that it has complied with its obligations pursuant to this Section 14.4.

**14.5** **Injunctive Relief.** Each Party acknowledges and agrees that the breach of such Party's obligations under this Section 14 will result in substantial and irreparable harm and injury to the other Party and/or such Party's Affiliates for which monetary damages alone would be an inadequate remedy, and that damages are difficult to accurately measure. Accordingly, each Party agrees that the other Party will be entitled to obtain immediate injunctive relief, as well as any other equitable relief allowed by the federal or state courts. The foregoing remedy of injunctive relief is agreed to without prejudice to such Party to exercise any other rights and remedies it may have at law, in equity, or under contract including, without limitation, this Agreement, all of which each Party hereby expressly reserves.

**15 LIMITATION OF LIABILITY.**

**15.1** **EXCEPT FOR LIABILITIES ARISING FROM A BREACH OF A PARTY'S OBLIGATIONS OF CONFIDENTIALITY, OR LIABILITY FOR INDEMNIFICATION, IN NO EVENT WILL EITHER PARTY OR ANY AFFILIATE OF EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR ENHANCED DAMAGES OR OTHER INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY PAYMENT FOR LOST BUSINESS, FUTURE PROFITS, LOSS OF GOODWILL, REIMBURSEMENT FOR EXPENDITURES OR INVESTMENTS MADE OR COMMITMENTS ENTERED INTO, TERMINATION OF EMPLOYEES OR EMPLOYEES SALARIES, OVERHEAD OR FACILITIES INCURRED OR ACQUIRED BASED UPON THE BUSINESS DERIVED OR ANTICIPATED UNDER THIS AGREEMENT), ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (D) WHETHER SUCH CLAIMS ARE BASED ON TERMINATION, PROTECTION, NON-RENEWAL OR SIMILAR LAWS**.

**15.2[REDACTED].**

**15.3[REDACTED]**

**15.4THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION 15 SHALL NOT APPLY TO DAMAGES OR LIABILITIES ARISING FROM THE GROSSLY NEGLIGENT ACTS OR OMISSION OR WILLFUL MISCONDUCT OF EITHER PARTY IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT OR A PARTY'S OBLIGATION TO PAY PURSUANT TO SECTION 18.17 (ATTORNEY'S FEES AND COSTS) OF THIS AGREEMENT.**

**15.5THE LIMITATION OF LIABILITY PROVISIONS SET FORTH IN THIS SECTION 15 SHALL APPLY EVEN IF THE NON-BREACHING PARTY'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE PARTIES ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITIES SET FORTH IN THIS SECTION 15, THAT THE SAME REFLECT AN ALLOCATION OF RISK BETWEEN THE PARTIES (INCLUDING THE RISK THAT A CONTRACT REMEDY MAY FAIL OF ITS ESSENTIAL PURPOSE AND CAUSE CONSEQUENTIAL LOSS), AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.**

**15.6[REDACTED]**

**16 RECORDS.** MVNE SP shall maintain complete and accurate books and records of MVNE SP's performance or failure to perform under this Agreement and any payments, charges or other amounts paid or to be paid to either Party pursuant to this Agreement (collectively, the "**Records**"). During the Term, DISH may request and MVNE SP shall provide to DISH copies of the Records. Such Records shall be deemed MVNE SP's Confidential Information subject to Section 14 (Confidentiality). In the event the Records reveal that MVNE SP has overcharged or under credited DISH (including, without limitation, MVNE SP's failure to apply applicable credits to the fees as prescribed under this Agreement), then, within thirty (30) days following DISH's delivery of notice of such overcharge or under credit, MVNE SP shall issue an invoice credit to DISH in an amount equal to the sum of the amount of any such overcharge or under credit (or the amount due as a refund for any and all applicable credits). If any credits or portions thereof are not fully used as of the date of any termination or expiration of this Agreement for any reason or no reason, MVNE SP shall pay such unused amounts no later than sixty (60) days following such termination or expiration. Such payment obligation shall survive any termination or expiration of this Agreement.

**17 INFORMATION SECURITY.** At all times during the Term, MVNE SP will comply with the material requirements of **Schedule I** (Information Security Requirements).

**18 GENERAL PROVISIONS.**

**18.1Governing law and venue; waiver of jury trial; specific performance.** Subject to the Dispute Escalation procedures set forth in Section 18.14 (Dispute Escalation), this Agreement, and all Actions (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the Laws of the State of New York, including its statutes of limitations, without giving effect to any borrowing statute or applicable principles of conflicts of law to the extent that the application of the laws (including statutes of limitation) of another jurisdiction (whether of the State of New York or any other jurisdiction) would be required thereby. The Parties acknowledge that the respective rights and obligations of each Party as set forth in the Agreement are based on law and the regulatory environment as it exists as of the Effective Date. If any legislative body, regulatory or judicial order, rule, regulation, arbitration or dispute resolution or other legal or regulatory action materially affects the provisions of this Agreement, then either Party may, by providing written notice to the other party, require that the affected provisions of the Agreement be renegotiated in good faith.

**18.2** **Headings and Interpretation.** Headings of sections of this Agreement are included for convenience only and may not be used to define, limit, extend or interpret the terms of this Agreement. Each capitalized term applies equally to both the singular and plural forms thereof. The Parties acknowledge and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any exhibits to this Agreement. No course of dealing, course of performance or usage of trade may be considered in the interpretation or enforcement of this Agreement. The Parties waive any right they may have to introduce evidence of any such course of dealing, course of performance or usage of trade. The term "day" when used in this Agreement, unless specified as a business day, means calendar day. For the purposes of this Agreement, a "business day" means a weekday (other than a Saturday or a Sunday) excluding any national (U.S.) holiday.

**18.3** **Notices.** All notices and other communications under this Agreement will be given in writing (email sufficient) and be deemed to have been duly given and effective:

**18.3.1** Upon receipt if delivered in person, or via email;

**18.3.2** 1 day after deposit prepaid with a national overnight express delivery service; or

**18.3.3** 3 days after deposit in the United States mail.

**18.3.4** Either party may change the following contact information upon written notice to the other party.

**18.3.5** Notices are to be delivered or transmitted to:

**If to be given to MVNE SP:**
Ting, Inc.
Attn: Chief Executive Officer

*If by nationally recognized courier service*:
96 Mowat Ave.
Toronto, ON Canada M6K 3M1

Cc: Davinder Singh,
Chief Financial Officer

*If by nationally-recognized courier service*:
Same address as noted above for DISH nationally-recognized courier delivery

with a copy by email to: legal@tucows.com

**If to be given to DISH:**
DISH Wireless L.L.C.
Attn: Chief Information Officer

*If by nationally recognized courier service*:
9601 South Meridian Blvd.
Englewood, Colorado 80112

*If by first-class certified mail*:
P.O. Box 6655
Englewood, Colorado 80155

*If by facsimile*:
Fax #: (303) 723-2050

Cc: Office of the General Counsel
DISH Wireless L.L.C.

*If by nationally-recognized courier service*:
Same address as noted above for DISH nationally-recognized courier delivery

*If by first-class certified mail*:
Same address as noted above for DISH first-class certified mail delivery

*If by facsimile*:
Fax #: (303) 723-2050

**18.4 Policy Types and Coverage.**

**18.4.1** MVNE SP shall, at all times during the Term and at MVNE SP's sole cost and expense, maintain the following insurance policies: **(a)** commercial general liability insurance covering bodily injury, property damage, personal and advertising injury liability and contractual liability, with limits of not less than one million and 00/100 dollars ($1,000,000.00) for any one (1) occurrence and two million and 00/100 dollars ($2,000,000.00) annual aggregate, naming "DISH Purchasing Corporation and its parent companies, subsidiaries and affiliates" as additional insureds; **(b)** workers' compensation insurance, with limits of not less than the greater of **(i)** one million and 00/100 dollars ($1,000,000.00) and **(ii)** the minimum amount required by Law; **(c)** umbrella/excess liability insurance with limits of not less than five million and 00/100 dollars ($5,000,000.00) per occurrence and five million and 00/100 dollars ($5,000,000.00) annual aggregate in excess of the commercial general liability and business auto liability insurance, naming "DISH Purchasing Corporation and its parent companies, subsidiaries and affiliates" as additional insureds**)** "All Risk" property insurance covering not less than one hundred percent (100%) of the replacement value of MVNE SP's personal property; **(d)** cyber-liability insurance covering acts, errors and/or omissions arising out of Services performed under this Agreement, with limits of not less than five million and 00/100 dollars ($5,000,000.00) per occurrence and five million and 00/100 dollars ($5,000,000.00) annual aggregate; and **(e)** professional liability insurance covering acts, errors or omissions arising out of Services performed under this Agreement, with limits of not less than three million and 00/100 dollars ($3,000,000.00) per occurrence and five million and 00/100 dollars ($5,000,000.00) annual aggregate.

**18.4.2** **Other Policy Terms.** Each insurance policy described in this Section 18.3.7 must: **(a)** provide that the proceeds of the insurance policy are payable to DISH; **(b)** be maintained with an insurer with an A.M. Best Company, Inc. rating of at least A-, Financial Class Size VII; **(c)** provide it cannot be cancelled or modified without thirty (30) days' advance written notice to DISH; **(d)** be primary and noncontributory to any insurance maintained by DISH; **(e)** contain a waiver of subrogation against DISH and DISH's Affiliates; and **(f)** have an extended reporting period or "tail" of not less than two (2) years following the expiration or sooner termination of this Agreement if such insurance policy is a "claims-made" insurance policy.

**18.4.3** **Certificates; No Waiver.** Immediately upon DISH's request, MVNE SP shall deliver to DISH original certificates of insurance evidencing the insurance policies required by Section 18.3.7 of this Agreement. For the avoidance of doubt, this Section 18.3.8 does not waive, modify or otherwise alter MVNE SP's obligations pursuant to any other provision of this Agreement.

**18.5** **Force Majeure.**

**18.5.1** The obligations of DISH or its Affiliates or MVNE SP or its Affiliates under this Agreement will be suspended to the extent that such Party is wholly or partially precluded from complying with its obligations under this Agreement by force majeure. Force majeure includes, but is not restricted to, Acts of God, fire, storm, flood, earthquake, explosion, accident, act of the public enemy, war, rebellion, insurrection, sabotage, outbreak, epidemic, public health emergency, quarantine restriction, labor dispute, labor shortage, transportation embargo or failure, or any other event or circumstance beyond such Party's control. If any force majeure limits MVNE SP or its Affiliates ability to deliver goods or Services to DISH or its Affiliates, MVNE or its Affiliates may make partial deliveries to DISH or its Affiliates in proportions that are reasonable under the circumstances.

**18.5.2** In addition to, and without limiting, the foregoing, each Party expressly acknowledges and agrees that it was and will not be possible for MVNE SP or its Affiliates to foresee all the consequences that the existence and spread of the SARS-CoV-2 virus (the "Pandemic") may have or cause, including without limitation, the actions or recommendations by authorities. Consequently, each Party acknowledges that: (i) the other Party's obligations and ability to perform under this Agreement may be affected thereby; and (ii) challenges and/or disruptions to performance may occur. The Parties agree that they will work together in good faith to agree on possible adjustments to the performance and delivery of the Services with a view toward securing as little disturbance or interruption to each Party's performance under this Agreement as is reasonably practical; provided that neither Party shall be excused from timely and proper performance of its obligations under this Agreement arising from a failure to adequately plan for or mitigate the consequences or impact of the Pandemic.

**18.6** **No Other Agreements.**

**18.6.1** Each Party represents and warrants to the other Party that the execution and performance of this Agreement does not and will not violate any other contract or obligation to which the Party making such representation and warranty is a party. Neither Party will disclose to the other Party, or use or induce such other Party to use, any proprietary information or trade secrets of any other person, association or entity. This Agreement constitutes the entire agreement and understanding between MVNE SP and DISH with respect to the Services and supersede all offers, negotiations and other agreements concerning the Services. Neither party is relying on any oral or written representations or warranties from the other party, including, but not limited to, any representation or warranty as to the nature of competition or the results or effect of any advertising. No course of dealing, course of performance, or usage of trade may be invoked by either party to modify or supplement in any way the terms and conditions of this Agreement.

**18.6.2** Except as set forth in this Agreement, any amendments to this Agreement must be in writing and signed by Authorized Representatives of DISH and MVNE SP.

**18.7 Relationship, Authority and Representations.** Nothing in this Agreement creates or will be construed or implied to create a relationship of partners, agency, joint venture, or employer and employee. Neither Party is not authorized to act as an agent for or legal representative of the other Party, and does not have authority to assume or create any obligation on behalf of, in the name of, or that will be binding upon such other Party.

**18.8 Remedies Cumulative.** Subject to Section 11.6.2, the rights and remedies expressly provided in this Agreement are cumulative and not exclusive of any rights or remedies that a Party would otherwise have.

**18.9 Successor Interests and Assignment**. This Agreement is binding upon the heirs, legal representatives, successors and assigns of DISH and MVNE SP.

**18.10 Assignment.** Neither Party may assign, license, sublicense or otherwise transfer any of its rights or obligations under this Agreement without the other Party's prior written consent. Any assignment or transfer in violation of the foregoing shall be null and void *ab initio*. Notwithstanding the foregoing, either Party may, without consent or approval by the other Party: (i) assign this Agreement, in whole or in part and the rights and obligations thereunder to any Affiliate of such Party; provided, that with respect to the assigning Party, such Affiliate must be incorporated or formed within the Territory, have a financial position that is equal to or better than the assigning Party and have the technical expertise and experience to perform such Party's obligations hereunder, or (ii) assign this Agreement, in whole or in part, to any successor entity to such Party, whether as a result of merger, sale of substantially all of a Party's assets or by operation of Law; provided, that with respect to the assigning Party, such successor entity must be incorporated or formed within the Territory, have a financial position that is equal to or better than the assigning Party and have the technical expertise and experience to perform the assigning Party's obligations hereunder.

**18.11 [REDACTED]**:

**18.11.1 [REDACTED]**

**18.11.2. [REDACTED]**

**18.11.3 [REDACTED]**

**18.11.3.1 [REDACTED]**

**18.11.3.2 [REDACTED]**

**18.11.3.3 [REDACTED]**

**18.11.3.4 [REDACTED]**

**18.12 Further Assurances.** Each party shall, and shall cause their respective Affiliates to, upon the reasonable request, and at the sole cost and expense, of the other party, promptly execute such documents and take such further actions as may be necessary to give full effect to the terms of this Agreement.

**18.13 Severability.** If any provision of this Agreement is held invalid under any applicable law or court order, the invalidity will not affect any other provisions of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect.

**18.14 No Waiver.** No failure by a Party to take action on account of any default or breach of this Agreement by the other party will constitute a waiver of that default or breach, or of the performance required of the other Party under this Agreement

**18.15 Dispute Escalation.** If there is a dispute between the Parties relating to the Service or any other aspect of this Agreement, the Parties will each designate one or more representatives to meet and use good faith efforts to attempt to resolve the dispute prior to filing a legal action. If the representatives are unable to resolve the dispute within thirty (30) days after the date of written notice of the dispute from one Party to the other, then the Parties will escalate the dispute to the vice president level on each side. If the vice presidents are unable to resolve the dispute within thirty (30) days after the date of escalation, then either Party may file a legal action in accordance with Section 18.1. Notwithstanding the foregoing, nothing in this Agreement will prevent either Party from or require either Party to delay the filing of any claim for injunctive relief.

**18.16 Governing Law and Venue**. This Agreement, and all Actions (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement), shall be governed by, and enforced in accordance with, the Laws of the State of New York, including its statutes of limitations, without giving effect to any borrowing statute or applicable principles of conflicts of law to the extent that the application of the laws (including statutes of limitation) of another jurisdiction (whether of the State of New York or any other jurisdiction) would be required thereby.

**18.17 Attorney's Fees and Costs.** The prevailing party in any dispute under this Agreement will be entitled to recover its costs, including reasonable attorneys' fees.

**18.18 No Third Party Beneficiaries**. This Agreement is for the sole benefit of the parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

**18.19 Construction.**

**18.19.1** **Interpretation.** This Agreement will be interpreted according to the plain meaning of its terms without any presumption that it should be construed in favor of or against either party. Any list of examples following followed by "including" or "e.g." is illustrative and not exhaustive, unless qualified by terms like "only" or "solely." All references (e.g., to sections, parties, terms, and Schedules) are to the sections of, parties to, terms of, and Schedules to this Agreement, unless stated otherwise. All captions are intended solely for the parties' convenience, and none will affect the meaning of any provision. The words "herein," "hereof," and words of similar meaning refer to this Agreement as a whole, including its Schedules. All references to "days" refer to calendar days, unless otherwise expressly set forth in this Agreement.

**18.19.2** **Severability**. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**18.19.3** **No Waiver**. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the waiving party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

**18.20** **Entire Agreement.** This Agreement, including, for clarity and without limitation, the recitals hereto and any and all Order Forms , amendments, attachments, schedules, addenda and/or exhibits to this Agreement or any such Order Form(s), set forth the entire, final and complete understanding between the Parties relevant to the subject matter of this Agreement, and supersede and replace all previous understandings or agreements, written, oral or implied, relevant to the subject matter of this Agreement made or existing before the Effective Date. The terms and conditions of this Agreement will apply to all work performed and Services rendered by MVNE SP during the Term. Any terms and/or conditions in MVNE SP's quotation forms, sales forms, acknowledgements, invoices, click-through agreements, referenced hyperlinks, communications or the like that are inconsistent with the provisions of this Agreement are of no force or effect. Except as expressly provided by this Agreement, no Order Form, Change Request, waiver or modification of any of the terms or conditions of this Agreement will be effective or binding on either Party unless in writing and signed by the Authorized Representatives of each Party. This Agreement may be executed by facsimile or electronic acceptance (in the manner specified by DISH) in two (2) or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**18.21** **Conflicting Terms**. The Parties agree that in the event of any conflicting terms or conditions between this MSA, any attachment hereto or any Order Form, except as expressly set forth in a writing executed by both Parties, the terms and conditions set forth in this MSA shall control.

**18.22** **Consultation with Counsel.** DISH and MVNE SP acknowledge that both parties have had the opportunity to review this Agreement, have negotiated its terms, and have had the opportunity to obtain independent legal counsel for advice regarding all terms. Neither party has relied upon any representation made by the other party regarding the meaning or effect of any of the provisions of this Agreement.

**18.23** **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The parties agree that any facsimile copy of a signed counterpart of this Agreement will be treated the same as a signed original of this Agreement. Signatures by facsimile and electronically scanned signatures shall be effective as original signatures of this Agreement.

**18.24** **Signing Authority.** Each person signing below hereby warrants and represents that he or she has full authority to execute this Agreement for the party on whose behalf he or she is signing.

EXECUTED as of the dates set forth below.

Ting, Inc.

_____

By:
Its:

_____

Signature Date:

DISH Wireless L.L.C.

_____

By:
Its:

_____

Signature Date:

## ATTACHMENT(S)

Schedule A – Scope of Work
Schedule B – SLA
Schedule C – Pricing Schedule
Schedule D – [RESERVED]
Schedule E – Change Request
Schedule F – Escrow Agreement
Schedule G – Sample Order Form
Schedule H – Federal Universal Service Fund Certification
Schedule I – Information Security Requirements
Schedule J – [RESERVED]
Schedule K – Knowledge
Schedule L – Approved Subcontractors
Schedule M – Underlying Carrier Suspension Authorization
Schedule N – [RESERVED]

Schedules and Exhibits to the agreement have been omitted pursuance to Item 601(b)(2) of Regulation S-K. The Company undertakes to furnish supplementary copies of any of the omitted schedules upon request by the SEC.

**Exhibit 31.1**

**Rule 13a-14(a)/15d-14(a) Certification**

I, Elliot Noss, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tucows Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
    a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date November 5, 2020

/s/ Elliot Noss

Elliot Noss
President and Chief Executive Officer

**Exhibit 31.2**

**Rule 13a-14(a)/15d-14(a) Certification**

I, Davinder Singh, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tucows Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
    a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date November 5, 2020

/s/ Davinder Singh

Davinder Singh
Chief Financial Officer

**Exhibit 32.1**

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Tucows Inc. (the "Company") on Form 10-Q for the period ended September 30, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Elliot Noss, President and Chief Executive Officer of the Company, hereby certify, to my knowledge, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 5, 2020

/s/ Elliot Noss
Elliot Noss
President and Chief Executive Officer

**Exhibit 32.2**

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Tucows Inc. (the "Company") on Form 10-Q for the period ended September 30, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Davinder Singh, Chief Financial Officer of the Company, hereby certify, to my knowledge, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(3) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(4) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 5, 2020

/s/ Davinder Singh
Davinder Singh
Chief Financial Officer