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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

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**FORM 10-Q**

(Mark One)

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

For the quarterly period ended June 30, 2016

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 0-51813

**LIQUIDITY SERVICES, INC.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**52-2209244**  
(I.R.S. Employer  
Identification No.)

**1920 L Street, N.W., 6th Floor, Washington, D.C.**  
(Address of Principal Executive Offices)

**20036**  
(Zip Code)

**(202) 467-6868**  
(Registrant's Telephone Number, Including Area Code)

(Former Name, Former Address and Former Fiscal Year, If Changed Since Last Report)

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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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

The number of shares outstanding of the issuer's common stock, par value \$.001 per share, as of August 3, 2016 was 30,741,411.

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## PART I—FINANCIAL INFORMATION

## Item 1. Consolidated Financial Statements.

**Liquidity Services, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
(Dollars in Thousands)

	June 30, 2016 (Unaudited)	September 30, 2015
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 129,865	\$ 95,465
Accounts receivable, net of allowance for doubtful accounts of \$696 and \$471 at June 30, 2016 and September 30, 2015, respectively	8,965	6,194
Inventory	25,829	25,510
Tax refund receivable	1,409	33,491
Prepaid and deferred taxes	12,070	19,903
Prepaid expenses and other current assets	7,161	7,826
Total current assets	185,299	188,389
Property and equipment, net	14,098	13,356
Intangible assets, net	2,965	4,051
Goodwill	64,114	64,073
Deferred long-term tax assets	14,147	5,871
Other assets	15,334	12,748
Total assets	<u>\$ 295,957</u>	<u>\$ 288,488</u>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 8,512	\$ 9,500
Accrued expenses and other current liabilities	35,354	27,350
Profit-sharing distributions payable	1,514	2,512
Customer payables	29,017	29,802
Total current liabilities	74,397	69,164
Long-term liabilities	3,479	3,322
Total liabilities	77,876	72,486
Stockholders' equity:		
Common stock, \$0.001 par value; 120,000,000 shares authorized; 30,726,554 shares issued and outstanding at June 30, 2016; 30,026,223 shares issued and outstanding at September 30, 2015	29	29
Additional paid-in capital	218,416	210,712
Accumulated other comprehensive loss	(5,080)	(5,626)
Retained earnings	4,716	10,887
Total stockholders' equity	218,081	216,002
Total liabilities and stockholders' equity	<u>\$ 295,957</u>	<u>\$ 288,488</u>

*See accompanying notes to the unaudited consolidated financial statements.*

**Liquidity Services, Inc. and Subsidiaries**  
**Unaudited Consolidated Statements of Operations**  
**(Dollars in Thousands, Except Per Share Data)**

	<u>Three Months Ended June 30,</u>		<u>Nine Months Ended June 30,</u>	
	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>
Revenue	\$ 62,025	\$ 70,060	\$ 178,633	\$ 251,509
Fee revenue	23,163	19,686	59,308	66,323
Total revenue	<u>85,188</u>	<u>89,746</u>	<u>237,941</u>	<u>317,832</u>
Costs and expenses:				
Cost of goods sold	39,292	35,838	106,102	132,814
Profit-sharing distributions	2,663	6,355	7,526	23,505
Technology and operations	22,541	24,784	70,026	76,409
Sales and marketing	9,967	10,255	28,575	31,438
General and administrative	9,042	10,476	29,576	31,378
Depreciation and amortization	1,616	2,044	4,948	7,241
Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets	—	—	39	96,238
Total costs and expenses	<u>85,121</u>	<u>89,752</u>	<u>246,792</u>	<u>399,023</u>
Income (loss) from operations	67	(6)	(8,851)	(81,191)
Interest and other (expense) income, net	<u>(208)</u>	<u>(8)</u>	<u>242</u>	<u>(85)</u>
(Loss) before provision for income taxes	(141)	(14)	(8,609)	(81,276)
Benefit for income taxes	17	1,629	2,438	20,156
Net (loss) income	<u>\$ (124)</u>	<u>\$ 1,615</u>	<u>\$ (6,171)</u>	<u>\$ (61,120)</u>
Basic (loss) earnings per common share	<u>\$ (0.00)</u>	<u>\$ 0.05</u>	<u>\$ (0.20)</u>	<u>\$ (2.04)</u>
Diluted (loss) earnings per common share	<u>\$ (0.00)</u>	<u>\$ 0.05</u>	<u>\$ (0.20)</u>	<u>\$ (2.04)</u>
Basic weighted average shares outstanding	<u>30,726,554</u>	<u>30,011,121</u>	<u>30,603,641</u>	<u>29,975,239</u>
Diluted weighted average shares outstanding	<u>30,726,554</u>	<u>30,011,121</u>	<u>30,603,641</u>	<u>29,975,239</u>

*See accompanying notes to the unaudited consolidated financial statements*

**Liquidity Services, Inc. and Subsidiaries**  
**Unaudited Consolidated Statements of Comprehensive Income (Loss)**  
**(Dollars in Thousands)**

	<u>Three Months Ended June 30,</u>		<u>Nine Months Ended June 30,</u>	
	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>
Net (loss) income	\$ (124)	\$ 1,615	\$ (6,171)	\$ (61,120)
Other comprehensive (loss) income:				
Foreign currency translation	(117)	272	546	(2,841)
Other comprehensive (loss) income, net of taxes	(117)	272	546	(2,841)
Comprehensive (loss) income	<u>\$ (241)</u>	<u>\$ 1,887</u>	<u>\$ (5,625)</u>	<u>\$ (63,961)</u>

*See accompanying notes to the unaudited consolidated financial statements.*

**Liquidity Services, Inc. and Subsidiaries**  
**Unaudited Consolidated Statement of Changes in Stockholders' Equity**  
**(In Thousands Except Share Data)**

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Total
	Shares	Amount				
Balance at September 30, 2015	30,026,223	\$ 29	\$ 210,712	\$ (5,626)	\$ 10,887	\$ 216,002
Vesting of restricted stock	700,331	—	—	—	—	—
Compensation expense and incremental tax loss from grants of common stock options and restricted stock	—	—	7,704	—	—	7,704
Net loss	—	—	—	—	(6,171)	(6,171)
Foreign currency translation	—	—	—	546	—	546
Balance at June 30, 2016	<u>30,726,554</u>	<u>\$ 29</u>	<u>\$ 218,416</u>	<u>\$ (5,080)</u>	<u>\$ 4,716</u>	<u>\$ 218,081</u>

*See accompanying notes to the unaudited consolidated financial statements.*

**Liquidity Services, Inc. and Subsidiaries**  
**Unaudited Consolidated Statements of Cash Flows**  
**(In Thousands)**

	Nine Months Ended June 30,	
	2016	2015
<b>Operating activities</b>		
Net loss	\$ (6,171)	\$ (61,120)
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	4,948	7,241
Stock compensation expense	8,228	8,911
Provision (benefit) for inventory allowance	2,052	(4,682)
Provision for doubtful accounts	226	1,354
Deferred tax benefit	(2,438)	(22,145)
Impairment of goodwill and long-lived assets	—	96,238
Incremental tax loss from exercise of common stock options	138	31
Changes in operating assets and liabilities:		
Accounts receivable	(2,997)	10,293
Inventory	(2,371)	42,488
Prepaid and deferred taxes	33,938	(4,380)
Prepaid expenses and other assets	(1,919)	(738)
Accounts payable	(988)	1,123
Accrued expenses and other	7,907	(20,773)
Profit-sharing distributions payable	(998)	(2,054)
Customer payables	(785)	(10,861)
Other liabilities	(134)	(1,381)
Net cash provided by operating activities	38,636	39,545
<b>Investing activities</b>		
Increase in intangibles	(46)	(12)
Purchases of property and equipment, including capitalized software	(4,587)	(5,371)
Net cash used in investing activities	(4,633)	(5,383)
<b>Financing activities</b>		
Proceeds from exercise of common stock options (net of tax)	—	107
Incremental tax loss from exercise of common stock options	(138)	(31)
Net cash (used) provided by financing activities	(138)	76
Effect of exchange rate differences on cash and cash equivalents	535	(648)
Net increase in cash and cash equivalents	34,400	33,590
Cash and cash equivalents at beginning of period	95,465	62,598
Cash and cash equivalents at end of period	\$ 129,865	\$ 96,188
<b>Supplemental disclosure of cash flow information</b>		
Cash (received) paid for income taxes, net	\$ (34,001)	\$ 6,369

*See accompanying notes to the unaudited consolidated financial statements.*

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements**

**1. Organization**

Liquidity Services (the “Company”) employs innovative e-commerce marketplace solutions to manage, value, and sell inventory and equipment for business and government clients. The Company operates a network of leading e-commerce marketplaces that enable buyers and sellers to transact in an efficient, automated environment offering over 500 product categories. The Company’s marketplaces provide professional buyers access to a global, organized supply of new, surplus, and scrap assets presented with digital images and other relevant product information. Additionally, the Company enables its corporate and government sellers to enhance their financial return on offered assets by providing a liquid marketplace and value-added services that encompass the consultative management, valuation, and sale of surplus assets. Our broad range of services include program management, valuation, asset management, reconciliation, RTV & RMA, refurbishment & recycling, fulfillment, marketing & sales, warehousing & transportation, buyer customer support, and compliance & risk mitigation. The Company organizes the products on its marketplaces into categories across major industry verticals such as consumer electronics, general merchandise, apparel, scientific equipment, aerospace parts and equipment, technology hardware, energy equipment, industrial capital assets, fleet and transportation equipment and specialty equipment. The Company’s marketplaces are [www.liquidation.com](http://www.liquidation.com), [www.govliquidation.com](http://www.govliquidation.com), [www.govdeals.com](http://www.govdeals.com), [www.networkintl.com](http://www.networkintl.com), [www.truckcenter.com](http://www.truckcenter.com), [www.secondipity.com](http://www.secondipity.com), and [www.go-dove.com](http://www.go-dove.com). We have over 8,000 clients, including Fortune 1000 and Global 500 organizations as well as government agencies. The Company has one reportable segment consisting of operating e-commerce marketplaces for sellers and buyers of new, surplus, and scrap assets.

**2. Summary of Significant Accounting Policies**

**Unaudited Interim Financial Information**

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles (GAAP) for interim financial information. Accordingly, they do not include all of the information and notes required by GAAP for complete financial statements. In the opinion of management, all adjustments, consisting of normal, recurring adjustments, considered necessary for a fair presentation have been included. The information disclosed in the notes to the consolidated financial statements for these periods is unaudited. Operating results for the three and nine months ended June 30, 2016 are not necessarily indicative of the results that may be expected for the year ending September 30, 2016 or for any future period. Fee revenue is revenue earned under the consignment model, as well as other fee revenue, and is presented separately as it accounts for more than 10% of total revenue.

**New Accounting Pronouncements**

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (“ASU”) 2014-09, *Revenue from Contracts with Customers*, which supersedes most existing revenue recognition guidance under GAAP. The new standard will change the way the Company recognizes revenue and significantly expand the disclosure requirements for revenue arrangements. In July 2015, the FASB delayed the effective date of the new standard such that the new standard will be effective for the Company beginning on October 1, 2018, and may be adopted either retrospectively or on a modified retrospective basis whereby the new standard would be applied to new and existing arrangements with remaining performance obligations as of the effective date, with a cumulative catch-up adjustment recorded to retained earnings at the effective date for existing arrangements with remaining performance obligations. The Company is currently evaluating the methods of adoption allowed by the new standard and the effect that adoption of the standard is expected to have on the Company’s consolidated financial statements and related disclosures.

In April 2015, the FASB issued Accounting Standards Update (“ASU”) 2015-05, *Intangibles - Goodwill and Other - Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Fees Paid in a Cloud Computing Arrangement*. ASU 2015-05 provides guidance regarding whether a cloud computing arrangement includes a software license. If a cloud computing arrangement includes a software license, the software license element of the arrangement must be accounted for in a manner consistent with the acquisition of other software licenses. If a cloud computing arrangement does not include a software license, the arrangement must be accounted for as a service contract. ASU 2015-05 does not change the accounting for service contracts. ASU 2015-05 is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2015. Early adoption is permitted. The Company is currently evaluating the methods of adoption allowed by the new standard and the effect that adoption of the standard is expected to have on the Company’s consolidated financial statements and related disclosures.

In February 2016, the FASB issued Accounting Standards Update (“ASU”) 2016-02, *Leases*. ASU 2016-02 will change the way the Company recognizes its leased assets. ASU 2016-02 will require organizations that lease assets—referred to as “lessees”—to recognize on the balance sheet the assets and liabilities representing the rights and obligations created by those leases. ASU 2016-02 will also require disclosures to help investors and other financial statement users better understand the amount, timing, and uncertainty of cash flows arising from leases. The standard will be effective for the Company beginning on October 1, 2019. The Company is currently evaluating the methods of adoption allowed by the new standard and the effect that adoption of the standard is expected to have on the Company’s consolidated financial statements and related disclosures.



**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

In March, 2016, the FASB issued Accounting Standards Update (“ASU”) 2016-09, *Compensation-Stock Compensation (Topic 718)*. The new standard will change certain aspects of accounting for share-based payments to employees. Under the new standard, the Company will no longer record excess tax benefits and certain tax deficiencies in additional paid-in capital (“APIC”). Instead, the Company will record all excess tax benefits and tax deficiencies as income tax expense or benefit in the income statement when the awards vest or are settled. The APIC pools will be eliminated. For interim reporting purposes, the Company will account for excess tax benefits and tax deficiencies as discrete items in the period in which they occur. The new standard will also allow the Company to repurchase more of an employee’s shares than it can today for income tax withholding purposes without triggering liability accounting and to make a policy election to account for forfeitures as they occur. The new guidance will require the Company to present excess tax benefits as an operating activity on the statement of cash flows rather than as a financing activity. The standard will be effective for the Company beginning on October 1, 2017.

**Business Combinations**

The Company recognizes all of the assets acquired, liabilities assumed, contractual contingencies, and contingent consideration at their fair value on the acquisition date. Acquisition-related costs are recognized separately from the acquisition and expensed as incurred. Restructuring costs incurred in periods subsequent to the acquisition date are expensed when incurred. Subsequent changes to the purchase price (i.e., working capital adjustments) or other fair value adjustments determined during the measurement period are recorded as an adjustment to goodwill, with the exception of contingent consideration, which is recognized in the statement of operations in the period it is modified. All subsequent changes to a valuation allowance or uncertain tax position that relate to the acquired company and existed at the acquisition date that occur both within the measurement period and as a result of facts and circumstances that existed at the acquisition date are recognized as an adjustment to goodwill. All other changes in valuation allowances are recognized as a reduction or increase to income tax expense.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**2. Summary of Significant Accounting Policies (continued)**

**Accounts Receivable**

Accounts receivable are recorded at the invoiced amount and are non-interest bearing. The Company maintains an allowance for doubtful accounts to reserve for potentially uncollectible receivables. Allowances are based on management's judgment, which considers historical experience and specific knowledge of accounts where collectability may not be probable. The Company makes provisions based on historical bad debt experience, a specific review of all significant outstanding invoices and an assessment of general economic conditions.

**Inventory**

Inventory consists of property obtained for resale, generally through the online auction process, and is stated at the lower of cost or market. Cost is determined using the specific identification method. Charges for unsellable inventory, as well as for inventory written down to expected market price, are included in cost of goods sold in the period in which they have been determined to occur. As of June 30, 2016 and September 30, 2015, the Company's inventory reserve was approximately \$2.8 million and \$0.8 million, respectively.

**Earnings per Share**

The Company calculates net income (loss) per share in accordance with FASB Accounting Standards Codification ("ASC") Topic 260 Earnings Per Share ("ASC 260"). Under ASC 260, basic net income (loss) per common share is calculated by dividing net income (loss) by the weighted-average number of common shares outstanding during the reporting period. The weighted average number of shares of common stock outstanding includes vested restricted stock awards. Diluted net income (loss) per share ("EPS") reflects the potential dilution that could occur assuming conversion or exercise of all dilutive unexercised stock options and unvested restricted stock awards. The dilutive effect of unexercised stock options and unvested restricted stock awards was determined using the treasury stock method. Under the treasury stock method, the proceeds received from the exercise of stock options, the amount of compensation cost for future service not yet recognized by the Company and the amount of tax benefits that would be recorded in additional paid-in capital when stock options become deductible for income tax purposes are all assumed to be used to repurchase shares of the Company's common stock. Stock options and restricted stock awards are not included in the computation of diluted net income (loss) per share when they are antidilutive.

For the three and nine months ended June 30, 2016, the basic and diluted weighted average common shares were the same because the inclusion of dilutive securities would have been anti-dilutive. Diluted net income attributable to common stockholders per share includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock. See Note 8 for outstanding stock options and unvested restricted stock, all of which are anti-dilutive.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

The following summarizes the basic and diluted income per share:

	<u>Three Months Ended June 30,</u>		<u>Nine Months Ended June 30,</u>	
	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>
	(unaudited)			
	(dollars in thousands, except per share amounts)			
Weighted average shares calculation:				
Basic weighted average shares outstanding	30,726,554	30,011,121	30,603,641	29,975,239
Treasury stock effect of options and restricted stock	—	—	—	—
Diluted weighted average common shares outstanding	<u>30,726,554</u>	<u>30,011,121</u>	<u>30,603,641</u>	<u>29,975,239</u>
Net (loss) income	\$ (124)	\$ 1,615	\$ (6,171)	\$ (61,120)
Basic (loss) income per common share	<u>\$ (0.00)</u>	<u>\$ 0.05</u>	<u>\$ (0.20)</u>	<u>\$ (2.04)</u>
Diluted (loss) income per common share	<u>\$ (0.00)</u>	<u>\$ 0.05</u>	<u>\$ (0.20)</u>	<u>\$ (2.04)</u>

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**2. Summary of Significant Accounting Policies (continued)**

**Stock-Based Compensation**

The Company estimates the fair value of share-based awards on the date of grant. The fair value of stock options and stock appreciation rights is determined using the Black-Scholes option-pricing model. The fair value of restricted stock awards is based on the closing price of the Company's common stock on the date of grant. The determination of the fair value of the Company's stock option awards and stock appreciation rights is based on a variety of factors including, but not limited to, the Company's common stock price, expected stock price volatility over the expected life of awards, and actual and projected exercise behavior. Additionally, the Company has estimated forfeitures for share-based awards at the dates of grant based on historical experience, adjusted for future expectation. The forfeiture estimate is revised as necessary if actual forfeitures differ from these estimates.

The Company issues restricted stock awards where restrictions lapse upon either the passage of time (service vesting), achievement of performance targets, or some combination thereof. For those restricted stock awards with only service vesting conditions, the Company recognizes compensation cost on a straight-line basis over the explicit service period. For awards with both performance and service conditions, the Company starts recognizing compensation cost over the remaining service period, when it is probable the performance condition will be met.

For stock options and stock awards that contain performance vesting conditions, the Company excludes these awards from diluted earnings per share computations until the contingency is met as of the end of that reporting period.

The Company presents the cash flows from the tax benefits resulting from tax deductions in excess of the compensation cost recognized for those options (excess tax benefits) as a financing activity with a corresponding operating cash outflow in the Consolidated Statements of Cash Flows.

**3. Defense Logistics Agency (DLA) Disposition Services Contracts**

The Company has a Surplus Contract with the DLA Disposition Services under which the Company is the remarketer of all Department of Defense (DoD) non-rolling stock surplus turned into the DLA available for sale within the United States, Puerto Rico, and Guam. The Surplus Contract requires the Company to purchase all usable surplus property offered to the Company by the Department of Defense (DoD) at a fixed percentage of the DoD's original acquisition value (OAV). This fixed percentage is 4.35%; prior to the date the current Surplus Contract became effective, this fixed percentage was 1.8%. The Company retains 100% of the profits from the resale of the property and bears all of the costs for the merchandising and sale of the property. Included in accrued expenses and other current liabilities in the Consolidated Balance Sheet is a liability to the DoD of \$10,467,277 and \$2,026,000 for inventory as of June 30, 2016 and September 30, 2015, respectively. The Surplus Contract contains a provision providing for a mutual termination of the contract for convenience. The initial two-year base period ends in December 2016. There are four one-year options to extend, exercisable by DLA Disposition Services.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**3. Defense Logistics Agency (DLA) Disposition Services Contracts (Continued)**

The Company has a Scrap Contract with the DLA Disposition Services under which the Company is the remarketer of all DoD non electronic scrap turned into the DLA available for sale within the United States, Puerto Rico, and Guam.

DLA Disposition Services initiated an Invitation to Bid for the next Scrap Contract. Bids were solicited in February 2016, and the contract was awarded to the Company in April 2016. The contract is a three year contract with two one-year options. The Company will pay a revenue-sharing payment to the DLA under this contract equal to 64.5% of the gross resale proceeds of the scrap property, and the Company will bear all of the costs for the sorting, merchandising and sale of the property. The contract will contain a provision allowing the DLA to terminate the contract for convenience upon written notice from the DLA. The Company expects to commence operations under this contract in the first fiscal quarter of 2017.

**4. Goodwill**

The goodwill of acquired companies is primarily related to the acquisition of an experienced and knowledgeable workforce. The following summarizes goodwill activity for the periods indicated:

	<b>Goodwill</b> <b>(in thousands)</b>
Balance at September 30, 2015	\$ 64,073
Translation adjustments	41
Balance at June 30, 2016	<u>\$ 64,114</u>

**Impairment of Goodwill**

The Company performs its annual goodwill impairment assessment as of the end of the fiscal year and when indicators of impairment are identified. The last impairment assessment was performed as of September 30, 2015 and the Company identified indicators of impairment, including a decline in the Company's market capitalization. Goodwill impairment losses as of September 30, 2015, were \$136.2 million, including \$85.1 million recognized in the nine months ended June 30, 2015. During the nine months ended June 30, 2016, the Company did not identify any additional indicators of impairment.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**5. Intangible Assets**

As a result of the acquisition of Jacobs Trading Company on October 1, 2011, the Company assumed the rights and obligations of Jacobs Trading Company under the seller's Master Merchandise Salvage Contract with Wal-Mart Stores, Inc. (the "Wal-Mart Agreement") dated May 13, 2011. On December 1, 2014, Wal-Mart provided the Company with written notice terminating the Wal-Mart Agreement effective December 8, 2014. As a result of the termination of the Wal-Mart Agreement, the Company concluded that the intangible asset related to the Wal-Mart Agreement was impaired and reduced the remaining unamortized contract intangible asset of \$10.3 million to zero during the nine months ended June 30, 2015. This impairment charge is recorded in the Acquisition costs and the related fair value adjustments and impairment of goodwill and long-lived assets line item in the statements of operations. Intangible assets at June 30, 2016 and September 30, 2015 consisted of the following:

	Useful Life (in years)	June 30, 2016			September 30, 2015		
		Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
(dollars in thousands)							
Contract intangibles	10	\$ 1,500	\$ (113)	\$ 1,387	\$ 1,500	\$ —	\$ 1,500
Brand and technology	3 - 5	5,749	(4,774)	975	5,749	(3,926)	1,823
Covenants not to compete	3 - 5	700	(508)	192	700	(433)	267
Patent and trademarks	3 - 10	806	(395)	411	792	(331)	461
Total intangible assets, net		<u>\$ 8,755</u>	<u>\$ (5,790)</u>	<u>\$ 2,965</u>	<u>\$ 8,741</u>	<u>\$ (4,690)</u>	<u>\$ 4,051</u>

Future expected amortization of intangible assets at June 30, 2016 is as follows:

Years ending September 30,	Future Amortization (in thousands)
2016 (remaining three months)	\$ 331
2017	1,071
2018	279
2019	206
2020 and after	1,078
Total	<u>\$ 2,965</u>

Intangible assets amortization expense was approximately \$0.4 million and \$0.5 million for the three months ended June 30, 2016 and 2015, respectively. Intangible assets amortization expense was approximately \$1.1 million and \$2.6 million for the nine months ended June 30, 2016 and 2015, respectively. In prior years the Company presented amortization of contract intangibles on a separate line item within the consolidated statements of operations. During Q3 of fiscal 2016, the Company reclassified amortization of contract intangibles to the depreciation and amortization line item.

**6. Debt**

**Senior Credit Facility**

Effective March 25, 2016, the Company terminated its \$75 million senior credit facility. Borrowings under the Agreement bore interest at an annual rate equal to the 30 day LIBOR rate plus 1.25% (1.608% at December 31, 2015) and interest payments were due monthly. The Company's borrowing availability under the Facility as of September 30, 2015 and the date of termination was \$37.5 million. There were no outstanding borrowings under the Facility at the time of its termination.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**7. Income Taxes**

The Company's interim effective income tax rate is based on management's best current estimate of the expected annual effective income tax rate. The Company recorded a pre-tax loss in the first nine months of fiscal year 2016 and its corresponding effective tax rate is approximately 28.3%.

The Company applies the authoritative guidance related to uncertainty in income taxes. The Company has concluded that there were no uncertain tax positions identified during its analysis. The Company's policy is to recognize interest and penalties in the period in which they occur in the income tax provision. The Company and its subsidiaries file income tax returns in the U.S. federal jurisdiction, various state and local jurisdictions and in foreign jurisdictions, primarily Canada and the U.K. Currently, the Company is subject to income tax examinations for fiscal 2012 through 2015. The Company anticipates no material tax liability will arise from these examinations. The statute of limitations for U.S. federal income tax returns for years prior to fiscal 2013 is now closed. However, certain tax attribute carryforwards that were generated prior to fiscal 2013 may be adjusted upon examination by tax authorities if they are utilized.

**8. Stockholders' Equity**

**Share Repurchase Program**

Since 2008, the Company's Board of Directors has approved the repurchase of up to \$101.9 million in shares under a share repurchase program. Under the program, the Company is authorized to repurchase issued and outstanding shares of our common stock under a share repurchase program approved by our Board of Directors. Share repurchases may be made through open market purchases, privately negotiated transactions or otherwise, at times and in such amounts as management deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements and other market conditions. The repurchase program may be discontinued or suspended at any time, and will be funded using the Company's available cash. The Company did not repurchase shares under this program during the nine months ended June 30, 2016. As of June 30, 2016, the Company may repurchase an additional \$10.1 million shares under this program.

**2006 Omnibus Long-Term Incentive Plan (the 2006 Plan)**

Under the 2006 Plan, as amended, 10,000,000 shares of common stock were available for issuance. At September 30, 2014, there were 772,227 shares remaining reserved for issuance in connection with awards under the 2006 Plan. In February 2015, at the Company's annual meeting of stockholders, the stockholders approved an amendment to the 2006 Plan which increased the shares available for issuance under the 2006 Plan by 3,000,000 shares and established a fungible share pool so that awards other than options or stock appreciation rights granted after January 9, 2015, would be counted as 1.5 shares from the shares reserved for issuance under the 2006 Plan. During the nine months ended June 30, 2016, the Company canceled 92,499 options and 214,014 restricted shares with performance conditions because the Compensation Committee, which administers the 2006 Plan, determined the performance goals had become unachievable. At June 30, 2016, there were 340,851 shares remaining reserved for issuance in connection with awards under the 2006 Plan.

During fiscal year 2015, the Company issued 737,972 cash-settled stock appreciation rights at the price of \$9.35, and 59,156 cash-settled stock appreciation rights were forfeited. During the nine months ended June 30, 2016, the Company issued 1,062,668 cash-settled stock appreciation rights at a price of \$4.57 and 87,607 cash-settled stock appreciation rights were forfeited. Stock appreciation rights are recorded as liability awards. The maximum number of shares subject to options or stock appreciation rights that can be awarded under the 2006 Plan to any person is 1,000,000 per year. The maximum number of shares that can be awarded under the 2006 Plan to any person, other than pursuant to an option or stock appreciation right, is 700,000 per year. The Company issues stock appreciation rights where restrictions lapse upon either the passage of time (service vesting), achievement of performance targets, or some combination of these conditions. For those stock appreciation rights with only service conditions, the Company recognizes compensation cost on a straight-line basis over the explicit service period. For awards with both performance and service conditions, the Company starts recognizing compensation cost over the remaining service period, when it is probable the performance condition will be met. The stock appreciation rights that include only service conditions generally vest over a period of one to four years conditioned on continued employment for the incentive period.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**8. Stockholders' Equity (Continued)****Stock Option Activity**

A summary of the Company's stock option activity for the year ended September 30, 2015 and the nine months ended June 30, 2016 is as follows:

	Options	Weighted-Average Exercise Price
Options outstanding at September 30, 2014	1,465,907	\$ 19.50
Options granted	310,177	9.92
Options exercised	(14,869)	7.09
Options canceled	(288,572)	20.26
Options outstanding at September 30, 2015	1,472,643	17.46
Options granted	583,228	6.68
Options exercised	—	—
Options canceled	(265,531)	17.57
Options outstanding at June 30, 2016	1,790,340	13.96
Options exercisable at June 30, 2016	1,012,706	17.71

The intrinsic value and weighted average remaining contractual life in years of outstanding and exercisable options at June 30, 2016 is approximately \$684,975 and 6.66 and \$24,512 and 4.71, respectively, based on a stock price of \$7.84 on June 30, 2016. Over the last three years, volatility rates have ranged from 50.90% - 77.92%, the dividend rate has been 0%, risk free interest rates have ranged from 0.12% - 1.51% and expected forfeiture rates have ranged from 19.70% - 23.54%.

**Restricted Share Activity**

A summary of the Company's restricted share activity for the year ended September 30, 2015 and the nine months ended June 30, 2016 is as follows:

	Restricted Shares	Weighted-Average Fair Value
Unvested restricted shares at September 30, 2014	1,897,827	\$ 24.96
Restricted shares granted	1,298,604	10.04
Restricted shares vested	(343,204)	27.50
Restricted shares canceled	(486,040)	26.54
Unvested restricted shares at September 30, 2015	2,367,187	16.08
Restricted shares granted	1,458,367	5.45
Restricted shares vested	(700,331)	15.93
Restricted shares canceled	(423,386)	22.25
Unvested restricted shares at June 30, 2016	2,701,837	9.42

The intrinsic value and weighted average remaining contractual life in years of unvested restricted shares at June 30, 2016 is approximately \$21.2 million and 8.91, respectively, based on a stock price of \$7.84 on June 30, 2016.



**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**9. Fair Value Measurement**

The Company measures and records in the accompanying consolidated financial statements certain liabilities at fair value on a recurring basis. Authoritative guidance issued by the FASB establishes a fair value hierarchy for those instruments measured at fair value that distinguishes between assumptions based on market data (observable inputs) and the Company's assumptions (unobservable inputs). The hierarchy consists of three levels:

- Level 1 Quoted market prices in active markets for identical assets or liabilities;
- Level 2 Inputs other than Level 1 inputs that are either directly or indirectly observable; and
- Level 3 Unobservable inputs developed using estimates and assumptions developed by the Company, which reflect those that a market participant would use.

As of June 30, 2016 and September 30, 2015, the Company had no Level 1, Level 2, or Level 3 assets or liabilities that were recorded at fair value on a recurring basis.

The Company's financial assets not measured at fair value are cash and cash equivalents (which includes cash and commercial paper with original maturities of less than 90 days). The Company believes the carrying value of these instruments approximates fair value due to the short term maturities.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**10. Defined Benefit Pension Plan**

Certain employees of GoIndustry (UK) Limited (“GoIndustry”), which the Company acquired in July 2012, are covered by the Henry Butcher Pension Fund and Life Assurance Scheme (the “Scheme”), a qualified defined benefit pension plan.

The net periodic benefit recognized for the three and nine months ended June 30, 2016 and 2015 included the following components:

Qualified Defined Benefit Pension Plan	Three Months Ended June 30,		Nine Months Ended June 30,	
	2016	2015	2016	2015
	(dollars in thousands)			
Service cost	\$ —	\$ —	\$ —	\$ —
Interest cost	205	\$ 238	\$ 634	\$ 731
Expected return on plan assets	(271)	(298)	(823)	(895)
Amortization of prior service cost	—	—	—	—
Amortization of actuarial (gain)/loss	—	—	—	—
Amortization of transitional obligation/(asset)	—	—	—	—
Total net periodic benefit	\$ (66)	\$ (60)	\$ (189)	\$ (164)

**11. Guarantees**

During the second quarter of 2015, the Company issued a guarantee to GoIndustry and the Trustees (the “Trustees”) of the Scheme. Under the arrangement, the Company irrevocably and unconditionally (a) guarantees to the Trustees punctual performance by GoIndustry of all its Guaranteed Obligations, defined as all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally in any capacity whatsoever) of the Company to make payments to the Scheme up to a maximum of 10 million British pounds, (b) undertakes with the Trustees that, whenever GoIndustry does not pay any amount when due in respect of its Guaranteed Obligations, it must immediately on demand by the Trustees pay that amount as if it were the principal obligor; and (c) indemnifies the Trustees as an independent and primary obligation immediately on demand against any cost, charge, expense, loss or liability suffered or incurred by the Trustees if any payment obligation guaranteed by it is or becomes unenforceable, invalid or illegal; the amount of the cost, charge, expense, loss or liability under this indemnity will be equal to the amount the Trustees would otherwise have been entitled to recover on the basis of a guarantee. The guarantee is a continuing guarantee that will extend to the ultimate balance of all sums payable by the Company in respect of its Guaranteed Obligations. The funded status of the Scheme as of September 30, 2015, was disclosed in Note 14, Defined Benefit Pension Plan, to the consolidated financial statements included in the Company’s Annual Report on Form 10-K for the year ended September 30, 2015.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**12. Business Realignment Expenses**

On October 1, 2014, the Company announced that it had realigned its workforce in response to the new terms and scope of the current Surplus Contract and to adjust for the efficiencies realized in its commercial business through ongoing integration efforts to support the future vision and growth of the Company. The business realignment included employee reductions across the organization. Business realignment expenses during the fiscal year ended September 30, 2014, included costs of \$1.8 million in employee severance and benefit costs. In September 2015, the Company evaluated its business realignment effort. This evaluation resulted in a net increase of \$0.3 million in accrued expense primarily due to timing changes in commencement of the current Surplus Contract and the delay in the wind-down of the NESA business.

The table below sets forth the significant components and activity in the business realignment initiatives during the nine months ended June 30, 2016.

(in thousands)	Liability Balance at September 30, 2015	Business Realignment Expenses	Cash Payments	Liability Balance at June 30, 2016
Employee severance and benefit costs for fiscal 2014 accrual	\$ 356	\$ (20)	\$ (335)	\$ 1
Employee severance and benefit costs for fiscal 2015 accrual	489	(80)	(409)	0
<b>Total</b>	<b>\$ 845</b>	<b>\$ (100)</b>	<b>\$ (744)</b>	<b>\$ 1</b>

The business realignment expenses are recorded in costs and expenses from operations in the statement of operations, and in accrued expenses and other current liabilities on the balance sheet as of June 30, 2016 and September 30, 2015.

**13. Legal Proceedings**

On July 14, 2014, Leonard Howard filed a putative class action complaint in the United States District Court for the District of Columbia against the Company and its chief executive officer, chief financial officer, and chief accounting officer, on behalf of stockholders who purchased the Company's common stock between February 1, 2012, and May 7, 2014. The complaint alleges that defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 by, among other things, misrepresenting the Company's growth initiative, growth potential, and financial and operating conditions, thereby artificially inflating its share price, and seeks unspecified compensatory damages and costs and expenses, including attorneys' and experts' fees. On October 14, 2014, the Court appointed Caisse de Dépôt et Placement du Québec and the Newport News Employees' Retirement Fund as co-lead plaintiffs. The Plaintiffs filed an amended complaint on December 15, 2014, which alleges substantially similar claims but which does not name the chief accounting officer as a defendant. On March 2, 2015, the Company moved to dismiss the amended complaint for failure to state a claim or plead fraud with the requisite particularity. On March 31, 2016, the Court granted that motion in part and denied it in part. On May 16, 2016, the Company answered the amended complaint, and on June 7, 2016, the Court entered a scheduling order calling for Plaintiffs to fully brief any motion for class certification by February 17, 2017, for fact discovery to be completed by June 30, 2017, and for expert discovery to be completed by December 22, 2017. The Company believes the allegations in the amended complaint are without merit and cannot estimate a range of potential liability, if any, at this time.

On June 8, 2016, Harold Slingerland filed a putative derivative complaint in the Superior Court for the District of Columbia, purportedly on behalf of the Company against individuals who served on the Company's Board of Directors between February 1, 2012, and May 7, 2014. The complaint in this action asserts that, among other things, the defendants breached their fiduciary duties to the Company and its stockholders by causing or allowing the Company to make the same alleged misstatements that are the subject of the putative class action complaint and exposing the Company to potentially significant costs and expenses in connection with defending that action. The complaint seeks monetary damages from the defendants other than Liquidity Services, changes to Liquidity Services' corporate governance, disgorgement of any profits, benefits, or other compensation obtained by the director defendants, and an award of attorneys' fees, costs, and expenses for plaintiff's counsel. There may be additional putative derivative complaints filed in the future asserting similar claims.

**Liquidity Services, Inc. and Subsidiaries**  
**Notes to the Unaudited Consolidated Financial Statements — (Continued)**

**14. Termination of the Wal-Mart Agreement**

As a result of the acquisition of Jacobs Trading Company on October 1, 2011, the Company assumed the rights and obligations of Jacobs Trading Company under the seller's Master Merchandise Salvage Contract with Wal-Mart Stores, Inc. (the "Wal-Mart Agreement") dated May 13, 2011. On December 1, 2014, Wal-Mart provided the Company written notice (the "Termination Notice") terminating the Wal-Mart Agreement effective December 8, 2014. The Termination Notice alleged that the Company failed to comply with certain provisions under the Wal-Mart Agreement with respect to service level requirements and restrictions on the disposition of merchandise. The Company disputed these allegations and contested the termination of the Wal-Mart Agreement with Wal-Mart. As a result of negotiations with Wal-Mart, on January 22, 2015, a settlement was finalized whereby, in exchange for both parties waiving all respective claims against the other, Wal-Mart agreed to pay \$7.5 million in damages. The payment was received from Wal-Mart in February 2015.

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

### FORWARD-LOOKING STATEMENTS

*This document contains forward-looking statements. These statements are only predictions. The outcome of the events described in these forward-looking statements is subject to known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to differ materially from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. These risks and other factors include but are not limited to the factors set forth in our Annual Report on Form 10-K for the year ended September 30, 2015 and subsequent filings with the Securities and Exchange Commission. You can identify forward-looking statements by terminology such as "may," "will," "should," "could," "would," "expects," "intends," "plans," "anticipates," "believes," "estimates," "predicts," "potential," "continues" or the negative of these terms or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. There may be other factors of which we are currently unaware or deem immaterial that may cause our actual results to differ materially from the forward-looking statements.*

*All forward-looking statements attributable to us or persons acting on our behalf apply only as of the date of this document and are expressly qualified in their entirety by the cautionary statements included in this document. Except as may be required by law, we undertake no obligation to publicly update or revise any forward-looking statement to reflect events or circumstances occurring after the date of this document or to reflect the occurrence of unanticipated events.*

*The following discussion should be read in conjunction with our consolidated financial statements and related notes and the information contained elsewhere in this document.*

#### Overview

*About us.* We employ innovative e-commerce marketplace solutions to manage, value, and sell inventory and equipment for business and government clients. We operate a network of leading e-commerce marketplaces that enable buyers and sellers to transact in an efficient, automated environment offering over 500 product categories. Our marketplaces provide professional buyers access to a global, organized supply of new, surplus, and scrap assets presented with digital images and other relevant product information. Additionally, we enable our corporate and government sellers to enhance their financial return on offered assets by providing a liquid marketplace and value-added services that encompass the consultative management, valuation, and sale of surplus assets. Our broad range of services include program management, valuation, asset management, reconciliation, RTV & RMA, refurbishment & recycling, fulfillment, marketing & sales, warehousing & transportation, buyer customer support, and compliance & risk mitigation. We organize the products on our marketplaces into categories across major industry verticals such as consumer electronics, general merchandise, apparel, scientific equipment, aerospace parts and equipment, technology hardware, energy equipment, industrial capital assets, fleet and transportation equipment and specialty equipment. Our marketplaces are [www.liquidation.com](http://www.liquidation.com), [www.govliquidation.com](http://www.govliquidation.com), [www.govdeals.com](http://www.govdeals.com), [www.networkintl.com](http://www.networkintl.com), [www.truckcenter.com](http://www.truckcenter.com), [www.secondipity.com](http://www.secondipity.com), and [www.go-dove.com](http://www.go-dove.com). We have over 8,000 clients, including Fortune 1000 and Global 500 organizations as well as government agencies. We have one reportable segment consisting of operating e-commerce marketplaces for sellers and buyers of new, surplus, and scrap assets.

We believe our ability to create liquid marketplaces for surplus and salvage assets generates a continuous flow of goods from our corporate and government sellers. This flow of goods in turn attracts an increasing number of professional buyers to our marketplaces. During the 12 months ended June 30, 2016, the number of registered buyers grew from approximately 2,805,000 to approximately 2,958,000, or 5.5%.

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*Our revenue.* We generate substantially all of our revenue by retaining a percentage of the proceeds from the sales we manage for our sellers. We offer our sellers various transaction models.

- *Consignment model — fee revenue.* Under our consignment model, we recognize commission revenue from sales of merchandise in our marketplaces that is owned by others. These commissions, which we refer to as seller commissions, represent a percentage of the sale price the buyer pays upon completion of a transaction. We vary the percentage amount of the seller commission depending on the various value-added services we provide to the seller to facilitate the transaction. For example, we generally increase the percentage amount of the commission if we take possession, handle, ship, or provide enhanced product information for the merchandise. In most cases we collect the seller commission by deducting the appropriate amount from the sales proceeds prior to their distribution to the seller after completion of the transaction. Revenue from our consignment model accounted for approximately 20.9% and 20.4% of our total revenue for the three and nine months ended June 30, 2016. The merchandise sold under our consignment model accounted for approximately 65.9% and 63.2% of our GMV for the three and nine months ended June 30, 2016.
- *Purchase model.* Under our purchase model, we offer our sellers a fixed amount or the option to share a portion of the proceeds received from our completed sales in the form of a distribution. Distributions are calculated based on the value we receive from the sale after deducting a required return to us that we have negotiated with the seller. Because we are the primary obligor, and take general and physical inventory risks and credit risk under this transaction model, we recognize as revenue the sale price paid by the buyer upon completion of a transaction. Revenue from our purchase model accounted for approximately 64.2% and 65.3% of our total revenue for the three and nine months ended June 30, 2016. The merchandise sold under our purchase model accounted for approximately 29.9% and 32.0% of our GMV for the three and nine months ended June 30, 2016.
- *Other.* This revenue category is intended to include revenue from profit-sharing and non-consignment fee revenue. Under our profit-sharing model, we purchase inventory from our suppliers and share with them a portion of the profits received from a completed sale in the form of a distribution. Other revenue accounted for approximately 14.9% and 14.3% of our total revenue for the three and nine months ended June 30, 2016 and approximately 4.2% and 4.8% of our GMV for the three and nine months ended June 30, 2016.

We collect a buyer premium on substantially all of our transactions under all of our transaction models. Buyer premiums are calculated as a percentage of the sale price of the merchandise sold and are paid to us by the buyer. Buyer premiums are in addition to the price of the merchandise. Under our profit-sharing model, we typically share the proceeds of any buyer premiums with our sellers.

*Industry trends.* We believe there are several industry trends impacting the growth of our business including: (1) the increase in the adoption of the Internet by businesses to conduct e-commerce both in the United States and abroad; (2) in the near term the decrease in the volume, innovation, and price of consumer electronic products, resulting in lower supply from our retail clients and lower per unit prices and margins in our retail goods marketplace, although in the long term we expect innovation in the retail supply chain will increase the pace of product obsolescence and, therefore, the supply of surplus assets; (3) the increase in the volume of returned merchandise handled by both online and offline retailers; (4) the increase in government regulations and the need for corporations to have sustainability solutions necessitating verifiable recycling and remarketing of surplus assets; (5) the increase in outsourcing by corporate and government organizations of disposition activities for surplus and end-of-life assets as they focus on reducing costs, improving transparency, compliance and working capital flows, and increasingly prefer service providers with a proven track record, innovative scalable solutions and the ability to make a strategic impact in the reverse supply chain, which we expect to increase our seller base; and (6) an increase in buyer demand for surplus merchandise as consumers trade down by purchasing less expensive goods and seek greater value from their purchases, which results in lower per unit prices and margins in our retail goods vertical.

## Our Seller Agreements

*Our DoD agreements.* We have two contracts with the DoD pursuant to which we acquire, manage and sell excess property:

- *Surplus Contract.* The Surplus Contract is a competitive-bid contract under which we acquire, manage and sell usable DoD surplus personal property turned into the DLA Disposition Services (“DLA”). Surplus property generally consists of items determined by the DoD to be no longer needed, and not claimed for reuse by, any federal agency, such as computers, electronics, office supplies, scientific and medical equipment, aircraft parts, clothing and textiles. The Surplus Contract requires us to purchase all usable surplus property offered by the DoD at 4.35% of the DoD’s original acquisition value (OAV). The current, or third, Surplus Contract became effective December 2014, covers only non-rolling stock and has a base term of two years with four one-year renewal options. The prior, or second, Surplus Contract requires us to purchase all rolling and non-rolling usable surplus property offered by the DoD at 1.8% of the DoD’s OAV; the wind-down period under the second Surplus Contract will remain in effect until January 2017 to allow for the continued processing of usable Recycling Control Point (RCP) non-rolling stock surplus property.

Revenue from the second and third Surplus Contracts (including buyer premiums) accounted for approximately 30.9% and 31.0% of our total revenue for the three and nine months ended June 30, 2016. The property sold under the second and third Surplus Contracts accounted for approximately 11.7% and 13.1% of our GMV for the three and nine months ended June 30, 2016.

The DoD has broad discretion to determine what property will be made available for sale to us under the Surplus Contract and may retrieve or restrict property previously sold to us for national security reasons or if the property is otherwise needed to support the mission of the DoD.

- *Scrap Contract.* In June 2005 the Company was awarded the original Scrap Contract which was structured as a profit-sharing arrangement with 75.2% of the profits distributed to the DLA, and 1.8% to a third party. The contract was amended in June 2015 to adjust the DLA profit sharing percentage to 65.0%, eliminating the distribution to the third party. The Scrap Contract is a competitive-bid contract under which we acquire, manage and sell substantially all scrap property of the DoD turned into the DLA. Scrap property generally consists of items determined by the DoD to have no use beyond their base material content, such as metals, alloys, and building materials.

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Under the Scrap Contract, we acquire scrap property at a per pound price and disburse to the DLA a percentage of the profits, currently 65%, realized from the sale of the inventory, after deduction for allowable expenses. We refer to these disbursement payments to the DoD as profit-sharing distributions. We recognize as revenue the gross proceeds from these sales. The DoD reimburses us for certain direct expenses deemed to be payable by the DOD rather than by us. During fiscal 2015, if the Company's customer base met certain small business criteria as defined in the contract, we received an additional incentive payment which was withheld from payments to the DLA. The current Scrap Contract will expire on September 30, 2016. On April 8, 2016, the DLA awarded the next Scrap Contract to the Company. Under the new Scrap Contract, the Company will acquire scrap property from the DLA and pay the DLA a revenue-sharing payment equal to 64.5% of the gross resale proceeds. The Company will bear all of the costs for the sorting, merchandising and sale of the property. The new Scrap Contract has a 36-month base term, commencing in the first quarter of fiscal year 2017, with two 12-month extension options exercisable by the DLA. Revenue from the Scrap contract accounted for approximately 8.6% and 9.8% of our total revenue for the three and nine months ended June 30, 2016. The Scrap contract accounted for approximately 4.1% and 4.8% of our total GMV for the three and nine months ended June 30, 2016.

*Our Wal-Mart Contracts.* We have various contracts with Wal-Mart Stores, Inc., under which we purchase certain consumer products from Wal-Mart that have been removed from the sales stream of its retail operations. All of these agreements have customary commercial terms, which generally expire within a year and allow both parties to terminate for convenience with reasonable notice. We also had a long-term contract with Wal-Mart that did not provide for termination for convenience (the "Wal-Mart Agreement"). On December 1, 2014, Wal-Mart alleged that we failed to comply with certain provisions under the Wal-Mart Agreement and terminated the agreement effective December 8, 2014. We disputed these allegations and contested the termination of the Wal-Mart Agreement. On January 22, 2015, we finalized a settlement with Wal-Mart whereby, in exchange for both parties waiving all respective claims against the other, Wal-Mart agreed to pay \$7.5 million in damages. The amount of the settlement was recorded within accounts receivable and a reduction of inventory on the consolidated balance sheet as of December 31, 2014, as the settlement compensated us for the overpayment of inventory from Wal-Mart. We received the payment in February 2015.

On September 30, 2015, we sold certain assets related to the Jacobs Trading Company to a buyer, Tanager Acquisitions, LLC. In connection with the disposition, the buyer assumed certain liabilities related to the Jacobs Trading Company. The buyer issued to us a promissory note in the amount of \$12.3 million. The divestiture of the Jacobs Trading Company resulted in an \$8.0 million loss. The sale generated a tax loss that resulted in a \$31.5 million cash benefit from prior year income taxes and \$2.0 million of additional tax credits available to offset future taxes. In March, 2016, we received \$30.1 million of the cash benefit and expect to receive the remaining \$1.4 million in fiscal year 2017. We also received \$5.0 million for an overpayment of taxes paid in fiscal year 2015 to bring our total tax refund to \$35.1 million in June, 2016.

*Our commercial agreements.* We have over 600 corporate clients each of which has sold in excess of \$10,000 of surplus and salvage assets in our marketplaces during the last twelve months. Our agreements with these clients are generally terminable at will by either party.



## Key Business Metrics

Our management periodically reviews certain key business metrics for operational planning purposes and to evaluate the effectiveness of our operational strategies, allocation of resources and our capacity to fund capital expenditures and expand our business. These key business metrics include:

*Gross merchandise volume.* Gross merchandise volume, or GMV, is the total sales value of all merchandise sold through our marketplaces during a given period. We review GMV because it provides a measure of the volume of goods being sold in our marketplaces and thus the activity of those marketplaces. GMV also provides a means to evaluate the effectiveness of investments that we have made and continue to make, including in the areas of customer support, value-added services, product development, sales and marketing, and operations. The GMV of goods sold in our marketplaces during the three and nine months ended June 30, 2016 and 2015 totaled \$178.5 million and \$482.9 million, and \$193.6 million and \$628.3 million, respectively.

*Total registered buyers.* We grow our buyer base through a combination of marketing and promotional efforts. A person becomes a registered buyer by completing an online registration process on one of our marketplaces. As part of this process, we collect business and personal information, including name, title, company name, business address and contact information, and information on how the person intends to use our marketplaces. Each prospective buyer must also accept our terms and conditions of use. Following the completion of the online registration process, we verify each prospective buyer's e-mail address and confirm that the person is not listed on any banned persons list maintained internally or by the U.S. federal government. After the verification process, which is completed generally within 24 hours, the registration is approved and activated and the prospective buyer is added to our registered buyer list.

Total registered buyers, as of a given date, represent the aggregate number of persons or entities who have registered on one of our marketplaces. We use this metric to evaluate how well our marketing and promotional efforts are performing. Total registered buyers excludes duplicate registrations, buyers who are suspended from utilizing our marketplaces and those buyers who have voluntarily removed themselves from our registration database. In addition, if we become aware of registered buyers that are no longer in business, we remove them from our database. As of June 30, 2016 and September 30, 2015, we had approximately 2,958,000 and 2,845,000 registered buyers, respectively.

*Total auction participants.* For each auction we manage, the number of auction participants represents the total number of registered buyers who have bid one or more times in that auction. As a result, a registered buyer who bids, or participates, in more than one auction is counted as an auction participant in each auction in which he or she participates. Thus, total auction participants for a given period is the sum of the auction participants in each auction conducted during that period. We use this metric to allow us to compare our online auction marketplaces to our competitors, including other online auction sites and traditional on-site auctioneers. In addition, we measure total auction participants on a periodic basis to evaluate the activity level of our base of registered buyers and to measure the performance of our marketing and promotional efforts. For the three and nine months ended June 30, 2016 and 2015, approximately 642,000 and 1,840,000, and 611,000 and 1,882,000, total auction participants participated in auctions on our marketplaces, respectively.

*Completed transactions.* Completed transactions represents the number of auctions in a given period from which we have recorded revenue. Similar to GMV, we believe that completed transactions is a key business metric because it provides an additional measurement of the volume of activity flowing through our marketplaces. During the three and nine months ended June 30, 2016 and 2015, we completed approximately 151,000 and 437,000, and 137,000 and 428,000 transactions, respectively.

## Non-GAAP Financial Measures

*EBITDA and adjusted EBITDA.* EBITDA is a supplemental non-GAAP financial measure and is equal to net income plus interest expense and other (income) expense, net; provision for income taxes; and depreciation and amortization. Our definition of adjusted EBITDA differs from EBITDA because we further adjust EBITDA for stock-based compensation expense, acquisition costs such as transaction expenses and changes in earn out estimates, business realignment expense, disposition expenses, and goodwill and long-lived asset impairment.

We believe EBITDA and adjusted EBITDA are useful to an investor in evaluating our performance for the following reasons:

- Depreciation and amortization expense primarily relates to property and equipment and the amortization of contract intangibles related to the amortization and subsequent write-off of the contract related intangible assets associated with the Jacobs Trading acquisition, which closed on October 1, 2011 and the NESA acquisition, which closed on November 1, 2012. Both of these expenses are non-cash charges that have fluctuated significantly over the past five years. As a result, we believe that adding back these non-cash charges to net income is useful in evaluating the operating performance of our business on a consistent basis from year-to-year.
- As a result of varying federal and state income tax rates, we believe that presenting a financial measure that adjusts net income for provision for income taxes is useful to investors when evaluating the operating performance of our business.
- The authoritative guidance for stock-based compensation requires all share-based payments to employees, including grants of employee stock options, restricted stock and stock appreciation rights to be recognized in the income statement based on their estimated fair values. We believe adjusting net income for this stock based compensation expense is useful to investors when evaluating the operating performance of our business.
- The authoritative guidance related to business combinations requires the recognition of contingent consideration so that it is recognized at the time of acquisition rather than when it is probable and disallows the capitalization of transaction costs. We believe adjusting net income for these acquisition related expenses is useful to investors when evaluating the operating performance of our business on a consistent basis from year-to-year.
- We believe these measures are important indicators of our operational strength and the performance of our business because they provide a link between profitability and operating cash flow.
- We believe isolating non-cash charges, such as amortization and depreciation, and other items, such as business realignment expenses, disposition expenses, impairment costs incurred outside our ordinary course of business, provides additional information about our cost structure, and, over time, helps track our performance.
- We also believe that analysts and investors use EBITDA and adjusted EBITDA as supplemental measures to evaluate the overall operating performance of companies in our industry.

Our management uses EBITDA and adjusted EBITDA:

- as measurements of operating performance because they assist us in comparing our operating performance on a consistent basis as they remove the impact of items not directly resulting from our core operations;
- for planning purposes, including the preparation of our internal annual operating budget;
- to allocate resources to enhance the financial performance of our business;
- to evaluate the effectiveness of our operational strategies; and
- to evaluate our capacity to fund capital expenditures and expand our business.

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EBITDA and adjusted EBITDA as calculated by us are not necessarily comparable to similarly titled measures used by other companies. In addition, EBITDA and adjusted EBITDA: (a) do not represent net income or cash flows from operating activities as defined by GAAP; (b) are not necessarily indicative of cash available to fund our cash flow needs; and (c) should not be considered as alternatives to net income, income from operations, cash provided by operating activities or our other financial information as determined under GAAP.

We prepare adjusted EBITDA by adjusting EBITDA to eliminate the impact of items that we do not consider indicative of our core operating performance. You are encouraged to evaluate these adjustments and the reasons we consider them appropriate for supplemental analysis. As an analytical tool, adjusted EBITDA is subject to all of the limitations applicable to EBITDA. Our presentation of adjusted EBITDA should not be construed as an implication that our future results will be unaffected by unusual or non-recurring items.

The table below reconciles net income to EBITDA and adjusted EBITDA for the periods presented.

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands) (unaudited)			
Net (loss) income	\$ (124)	\$ 1,615	\$ (6,171)	\$ (61,120)
Interest and other expense (income), net	208	8	(242)	85
Benefit for income taxes	(17)	(1,629)	(2,438)	(20,156)
Depreciation and amortization	1,616	2,044	4,948	7,241
EBITDA	1,683	2,038	(3,903)	(73,950)
Stock compensation expense	3,084	3,499	8,228	8,911
Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets	—	—	39	96,238
Adjusted EBITDA	\$ 4,767	\$ 5,537	\$ 4,364	\$ 31,199

## Critical Accounting Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities. A “critical accounting estimate” is one which is both important to the portrayal of our financial condition and results and requires management’s most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. We continuously evaluate our critical accounting estimates. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

*Revenue recognition.* For transactions in our online marketplaces, which generate substantially all of our revenue, we recognize revenue when all of the following criteria are met:

- a buyer submits the winning bid in an auction and, as a result, evidence of an arrangement exists and the sale price has been determined;
- the buyer has assumed risks and rewards of ownership; and
- collection is reasonably assured.

Most of our sales are recorded subsequent to payment authorization being received, utilizing credit cards, wire transfers and PayPal, an Internet based payment system, as methods of payments. As a result, we are not subject to significant collection risk, as goods are generally not shipped before payment is received.

Fee revenue is revenue earned under the consignment model, as well as other fee revenue, and is presented separately as it accounts for more than 10% of total revenue.

Revenue is also evaluated for reporting revenue of gross proceeds when we act as the principal in the arrangement or net of commissions when we act as an agent. In arrangements in which we are deemed to be the primary obligor, bear physical and general inventory risk, and credit risk, we recognize as revenue the gross proceeds from the sale, including buyer’s premiums. In arrangements in which we act as an agent or broker on a consignment basis, without taking general or physical inventory risk, revenue is recognized based on the sales commissions that are paid to us by the sellers for utilizing our services; in this situation, sales commissions represent a percentage of the gross proceeds from the sale that the seller pays to us upon completion of the transaction.

We have evaluated our revenue recognition policy related to sales under our profit-sharing model and determined it is appropriate to account for these sales on a gross basis. The following factors were most heavily relied upon in our determination:

- We are the primary obligor in the arrangement.
- We are the seller in substance and in appearance to the buyer; the buyer contacts us if there is a problem with the purchase. Only we and the buyer are parties to the sales contract and the buyer has no recourse to the supplier. If the buyer has a problem, he or she looks to us, not the supplier.
- The buyer does not and cannot look to the supplier for fulfillment or for product acceptability concerns.
- We have general inventory risk.
- We take title to the inventory upon paying the amount set forth in the contract with the supplier. Such amount is generally a percentage of the supplier’s original acquisition cost and varies depending on the type of the inventory purchased or a fixed price per pound under our Scrap Contract.
- We are at risk of loss for all amounts paid to the supplier in the event the property is damaged or otherwise becomes unsaleable. In addition, as payments made for inventory are excluded from the calculation for the profit-sharing distribution under our DoD contracts, we effectively bear inventory risk for the full amount paid to acquire the property (*i.e.*, there is no sharing of inventory risk).

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The amount of our revenue that was generated outside of the U.S. for the three and nine months ended June 30, 2016 and 2015 was 12.3% and 12.4%, and 10.4% and 12.8%, respectively.

*Inventory.* Inventory consists of products available for sale and is valued at the lower of cost or market value. This valuation requires us to make judgments based on currently available information about expected recoverable value.

*Business Combinations.* We recognize all of the assets acquired, liabilities assumed, contractual contingencies, and contingent consideration at their fair value on the acquisition date. Acquisition-related costs are recognized separately from the acquisition and expensed as incurred. Generally, restructuring costs incurred in periods subsequent to the acquisition date are expensed when incurred. Subsequent changes to the purchase price (i.e., working capital adjustments) or other fair value adjustments determined during the measurement period are recorded as an adjustment to goodwill. All subsequent changes to a valuation allowance or uncertain tax position that relate to the acquired company and existed at the acquisition date that occur both within the measurement period and as a result of facts and circumstances that existed at the acquisition date are recognized as an adjustment to goodwill. All other changes in valuation allowances are recognized as a reduction or increase to income tax expense.

*Valuation of goodwill and other intangible assets.* We identify and value intangible assets that we acquire in business combinations, such as customer arrangements, customer relationships and non-compete agreements, that arise from contractual or other legal rights or that are capable of being separated or divided from the acquired entity and sold, transferred, licensed, rented or exchanged. The fair value of identified intangible assets is based upon an estimate of the future economic benefits expected to result from ownership, which represents the amount at which the assets could be bought or sold in a current transaction between willing parties, that is, other than in a forced or liquidation sale.

We test our goodwill and other intangible assets for impairment annually or more frequently if events or circumstances indicate impairment may exist. Examples of such events or circumstances could include a significant change in business climate, a loss of significant customers, or a significant decline in stock price. We make a qualitative evaluation about the likelihood of goodwill impairment to determine whether we should calculate the fair value of a reporting unit. If our evaluation indicates a likelihood of goodwill impairment, we apply a two-step fair value-based test to assess goodwill for impairment of our two reporting units. The first step compares the fair value of a reporting unit to its carrying amount, including goodwill. If the carrying amount of the reporting unit exceeds its fair value, the second step is then performed. The second step compares the carrying amount of the reporting unit's goodwill to the implied fair value of the goodwill. If the fair value of the goodwill is less than the carrying amount, an impairment loss would be recorded in our statements of operations. Intangible assets with definite lives are amortized over their estimated useful lives and are also reviewed for impairment if events or changes in circumstances indicate that their carrying amount may not be realizable.

Our management makes certain estimates and assumptions in order to determine the fair value of net assets and liabilities, including, among other things, an assessment of market conditions, projected cash flows, cost of capital and growth rates, which could significantly impact the reported value of goodwill and other intangible assets. Estimating future cash flows requires significant judgment, and our projections may vary from cash flows eventually realized. The valuations employ a combination of present value techniques to measure fair value, corroborated by comparisons to estimated market multiples. These valuations are based on a discount rate determined by our management to be consistent with industry discount rates and the risks inherent in our current business model.

We perform the annual goodwill impairment assessment as of the end of the fiscal year. During the three months ended December 31, 2014, we identified indicators of impairment, including the termination of the Wal-Mart Agreement on December 1, 2014, the significant decline in market capitalization during the quarter, and continued uncertainty in projections for fiscal year 2015 and beyond. As a result, we tested the goodwill for impairment as of December 31, 2014. Based on the goodwill impairment analysis as of the interim testing date, the carrying values of our two reporting units exceeded their fair values. Accordingly, we performed step two of the goodwill impairment test, where we determined the estimated fair values of the assets and liabilities of the reporting units. As a result of step two of the goodwill impairment test, we recorded a goodwill impairment charge of \$85.1 million during the first quarter of fiscal 2015. As part of our annual impairment assessment as of September 30, 2015, we identified indicators of impairment, including a decline in our market capitalization. As a result, we tested the goodwill for impairment as of September 30, 2015. Based on the results of step one of our goodwill impairment analysis as of the fiscal year ended September 30, 2015, the carrying values of both of our two reporting units exceeded their fair value. Accordingly, we performed step two of the goodwill impairment test and determined the estimated fair value of the assets and liabilities of the impaired reporting units. As a result of step two of the goodwill impairment test, we recorded a goodwill impairment charge of \$51.2 million during the fourth quarter of fiscal 2015. During the nine months ended June 30, 2016, we did not identify any indicators of impairment.

In accordance with FASB Accounting Standards Codification Topic 280 ("ASC 280"), which provides that the characteristics of a component require that it (a) constitutes a business, (b) has discrete financial information, and (c) its performance is reviewed by management, the Company has identified its reporting units as LSI-Retail Supply Chain Group (RSCG) and LSI-Capital Assets Group

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(CAG). As the RSCG operations and the CAG operations represent two distinct components under the guidance of ASC 280, goodwill should be measured for impairment separately for each of these components.

Determining the fair value of a reporting unit requires the exercise of significant judgment, including judgments about the appropriate discount rates, terminal growth rates, weighted average costs of capital, exit multiples, and the amount and timing of expected future cash flows. The judgments used in determining the fair value of our reporting units are based on significant unobservable inputs which causes the determination of the implied fair value of goodwill to fall within level three of the GAAP fair value hierarchy. The cash flows employed in the discounted cash flow analysis are based on the most recent budgets, forecasts, and business plans as well as various growth rate assumptions for years beyond the current business plan period. Discount rate assumptions are based on an assessment of the risk inherent in the future revenue streams and cash flows of the reporting unit. Various factors, including the failure to successfully implement our business plan for any of our reporting units, as well as other factors beyond our control, could have a negative effect on the fair value of such reporting unit, and increase the risk of further impairments of goodwill in the future.

We cannot predict the occurrence of certain future events that might adversely affect the reported value of goodwill and other intangible assets, which totaled \$67.1 million at June 30, 2016. Such events may include strategic decisions made in response to economic and competitive conditions, the impact of the economic environment on our base of buyers and sellers or material negative changes in our relationships with material customers.

*Income taxes.* We account for income taxes using the asset and liability approach for measuring deferred taxes based on temporary differences between the financial statement and income tax bases of assets and liabilities existing at each balance sheet date using enacted tax rates for the years in which the taxes are expected to be paid or recovered. A valuation allowance is provided to reduce the deferred tax assets to a level that we believe will more likely than not be realized. The resulting net deferred tax asset reflects management's estimate of the amount that will be realized. As of June 30, 2016, the Company had approximately \$22.1 million in net deferred tax assets. In the future, it is possible that a valuation allowance to reduce the deferred tax asset will be required, which could materially increase the Company's expense in the period the allowance is recognized and adversely affect its results of operations and statement of financial condition.

We apply the authoritative guidance related to accounting for uncertainty in income taxes. We concluded that there were no uncertain tax positions identified during our analysis.

We provide for income taxes based on our estimate of federal and state tax liabilities. These estimates include, among other items, effective rates for state and local income taxes, estimates related to depreciation and amortization expense allowable for tax purposes, and the tax deductibility of certain other items. Our estimates are based on the information available to us at the time we prepare the income tax provision. We generally file our annual income tax returns several months after our fiscal year-end. Income tax returns are subject to audit by federal, state and local governments, generally years after the returns are filed. These returns could be subject to material adjustments or differing interpretations of the tax laws.

*Stock-based compensation.* We recognize all share-based payments to employees, including grants of employee stock options, in the statements of operations based on their estimated fair values. We use the Black-Scholes option pricing model to estimate the fair values of share-based payments.

The above list is not intended to be a comprehensive list of all of our accounting estimates. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP, with little need for management's judgment in their application. There are also areas in which management's judgment in selecting any available alternative would not produce a materially different result. See our audited financial statements and related notes, which contain accounting policies and other disclosures required by GAAP.

### **Components of Revenue and Expenses**

*Revenue.* We generate substantially all of our revenue from sales of merchandise held in inventory and by retaining a percentage of the proceeds from the sales. Our revenue recognition practices are discussed in more detail in the section above entitled "*Critical Accounting Estimates.*"

*Cost of goods sold.* Cost of goods sold includes the costs of purchasing and transporting property for auction, as well as credit card transaction fees.

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*Profit-sharing distributions.* Our Scrap Contract with the DoD has been structured as a profit-sharing arrangement in which we purchase and take possession of all goods we receive from the DoD at a contractual price per pound. After deducting allowable operating expenses, we disburse to the DoD on a monthly basis a percentage of the profits of the aggregate monthly sales. We retain the remaining percentage of these profits after the DoD's disbursement. We refer to these disbursement payments to the DoD as profit-sharing distributions.

*Technology and operations.* Technology expenses consist primarily of personnel costs related to our programming staff who develop and deploy new marketplaces and continuously enhance existing marketplaces. These personnel also develop and upgrade the software systems that support our operations, such as sales processing. Because our marketplaces and support systems require frequent upgrades and enhancements to maintain viability, we have determined that the useful life for certain of our internally developed software is less than one year. As a result, we expense those costs as incurred. However, where we determine that the useful life of the internally developed software will be greater than one year, we capitalize development costs in accordance with ASC 350.

Operations expenses consist primarily of operating costs, including buyer relations, shipping logistics and distribution center operating costs.

*Sales and marketing.* Sales and marketing expenses include the cost of our sales and marketing personnel as well as the cost of marketing and promotional activities. These activities include online marketing campaigns such as paid search advertising.

*General and administrative.* General and administrative expenses include all corporate and administrative functions that support our operations and provide an infrastructure to facilitate our future growth. Components of these expenses include executive management and staff salaries, bonuses and related taxes and employee benefits; travel; headquarters rent and related occupancy costs; and legal and accounting fees. The salaries, bonus and employee benefits costs included as general and administrative expenses are generally more fixed in nature than our operating expenses and do not vary directly with the volume of merchandise sold through our marketplaces.

*Depreciation and amortization.* Depreciation and amortization expenses consist primarily of the depreciation and amortization of amounts recorded in connection with the purchase of furniture, fixtures and equipment and amortization of intangible assets from our acquisitions. Depreciation and amortization also consists of the amortization of our contract intangibles associated with the Jacobs Trading acquisition on October 1, 2011, and the NESAs transaction on November 1, 2012. The intangible asset created in conjunction with the acquisition of Jacobs Trading was valued at \$33.3 million and was being amortized over 55 months on a straight-line basis. The amortization period was correlated to the base term of the Wal-Mart contract from the acquisition date, exclusive of renewal periods. Upon the early termination of the Wal-Mart contract in December 2014, we expensed the remaining amount of unamortized expense of approximately \$10.3 million during the three months ended December 2014. The vendor contract intangible asset created in conjunction with the NESAs acquisition was valued at \$3.9 million and was being amortized over 20 months, on a straight-line basis. The amortization period was correlated to the base term of the contract, from the acquisition date, exclusive of renewal periods.

*Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets.* Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets consist of expenses incurred to complete a business combination, adjustments to the fair value of earn-outs, and impairment of goodwill and long-lived assets.

*Interest (income) expense and other expense, net.* Interest (income) expense and other expense, net consists of interest income on the note receivable related to the sale of the Jacobs Trading Company, expenses related to our terminated credit facility, and impacts of foreign currency fluctuations.

*Income taxes.* For interim income tax reporting the Company estimates its annual effective tax rate and applies this effective tax rate to its year to date pre-tax (loss) income. The Company's effective income tax rate before discrete items was 28.3% for the nine months ended June 30, 2016. The 2016 effective tax rate differed from the statutory federal rate of 35.0% primarily as a result of the impact of foreign, state, and local income taxes and permanent tax adjustments. We expect our future years' tax rates to be between 30% and 40%.

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**Results of Operations**

The following table sets forth, for the periods indicated, selected statement of operations data expressed as a percentage of revenue.

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2016	2015	2016	2015
Revenue	100.0%	100.0%	100.0%	100.0%
Costs and expenses:				
Cost of goods sold	46.1	39.9	44.6	41.8
Profit-sharing distributions	3.1	7.1	3.2	7.4
Technology and operations	26.5	27.6	29.4	24.0
Sales and marketing	11.7	11.4	12.0	9.9
General and administrative	10.6	11.7	12.4	9.8
Depreciation and amortization	1.9	2.3	2.1	2.3
Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets	—	—	0.0	30.3
Total costs and expenses	99.9	100.0	103.7	125.5
Income (loss) from operations	0.1	(0.0)	(3.7)	(25.5)
Interest and other (expense) income, net	(0.2)	(0.0)	0.1	(0.0)
(Loss) before provision for income taxes	(0.1)	(0.0)	(3.6)	(25.5)
Benefit for income taxes	0.0	1.8	1.0	6.3
Net (loss) income	(0.1)%	1.8%	(2.6)%	(19.2)%

**Three Months Ended June 30, 2016 Compared to Three Months Ended June 30, 2015**

*Revenue.* Revenue decreased \$4.5 million, or 5.1%, to \$85.2 million for the three months ended June 30, 2016 from \$89.7 million for the three months ended June 30, 2015, primarily due to (1) a 7.2% decrease, or \$3.5 million, in our commercial marketplaces due to the sale of the Jacobs Trading Company in fiscal 2015, and the wind down of the NESA refurbishment business in Canada, reduced product flows within our retail vertical, partially offset by stronger capital assets deal flow; and (2) a 5.4% decrease, or \$1.9 million, in our DoD businesses due to lower commodity prices and a shift in property mix to lower valued property provided under our Scrap and Surplus contracts, partly offset by higher service revenue. These revenue decreases were partially offset by a 15.2% increase, or \$0.8 million, in our state and local government (GovDeals) marketplace due to an increase in the number of new sellers and additional sales volume from existing clients. The amount of gross merchandise volume decreased 7.8%, or \$15.1 million to \$178.5 million, for the three months ended June 30, 2016 from \$193.6 million for the three months ended June 30, 2015, due to (1) a 16.7% GMV decrease, or \$17.2 million, in our commercial marketplaces due to the sale of the Jacobs Trading Company, the wind down of the NESA business, reduced product flows within our retail business, offset by stronger capital assets deal flow; and (2) a 20.5% GMV decrease, or \$7.2 million, in our DoD contracts due to lower commodity prices and a shift in property mix to lower valued property provided under our Scrap and Surplus contracts. These GMV decreases were partially offset by a 17.1% GMV increase, or \$9.4 million, in our state and local government (GovDeals) marketplace due to an increase in the number of new sellers and additional sales volume from existing clients.

*Cost of goods sold.* Cost of goods sold increased \$3.5 million, or 9.6%, to \$39.3 million for the three months ended June 30, 2016 from \$35.8 million for the three months ended June 30, 2015. This increase is primarily attributed to the increase in the price we pay for inventory under the current Surplus Contract as well as a greater mix of deals in the commercial marketplaces where we act as principal, offset by the sale of the Jacobs Trading Company, and the wind down of the NESA refurbishment business in Canada. In line with these changes, cost of goods sold increased to 46.1% of revenue, from 39.9%.

*Profit-sharing distributions.* Profit-sharing distributions decreased \$3.7 million, or 58.1%, to \$2.7 million for the three months ended June 30, 2016 from \$6.4 million for the three months ended June 30, 2015. As a percentage of revenue, profit-sharing distributions decreased to 3.1% from 7.1%. This is due to decreases in property flow from the DoD in our scrap business and lower commodity prices.



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*Technology and operations expenses.* Technology and operations expenses decreased \$2.2 million, or 9.0%, to \$22.5 million for the three months ended June 30, 2016 from \$24.8 million for the three months ended June 30, 2015, due to the sale of the Jacobs Trading Company in fiscal 2015. As a percentage of revenue, technology and operations expenses decreased to 26.5% from 27.6%.

*Sales and marketing expenses.* Sales and marketing expenses slightly decreased \$0.3 million, or 2.8%, to \$10.0 million for the three months ended June 30, 2016 from \$10.3 million for the three months ended June 30, 2015, due to the sale of the Jacobs Trading Company in fiscal 2015. As a percentage of revenue, sales and marketing expenses slightly increased to 11.7% from 11.4% in the prior year, primarily as a result of the decrease in revenue described above.

*General and administrative expenses.* General and administrative expenses decreased \$1.4 million, or 13.7%, to \$9.0 million for the three months ended June 30, 2016 from \$10.5 million for the three months ended June 30, 2015, due to the sale of the Jacobs Trading Company, and the wind down of the NESA business. As a percentage of revenue, general and administrative expenses decreased to 10.6% from 11.7% in the prior year.

*Depreciation and amortization expenses.* Depreciation and amortization expenses decreased \$0.4 million, or 21.0%, to \$1.6 million for the three months ended June 30, 2016 from \$2.0 million for the three months ended June 30, 2015, as a result of certain software purchases having reached the end of their amortization period, as well as the sale of the Jacobs Trading Company in fiscal 2015 and its related depreciable assets.

*Interest and other (expense) income, net.* Interest and other (expense) income, net, increased \$0.2 million, to \$0.2 million of expense for the three months ended June 30, 2016 from zero for the three months ended June 30, 2015. Interest and other (expense) income, net included impacts of foreign currency fluctuations.

*Benefit for income taxes.* Benefit for income taxes decreased \$1.6 million, to a benefit of zero for the three months ended June 30, 2016 from a benefit of \$1.6 million for the three months ended June 30, 2015.

*Net (loss) income.* Net loss for the three months ended June 30, 2016 was (\$0.1) million compared to income of \$1.6 million for the three months ended June 30, 2015.

### ***Nine Months Ended June 30, 2016 Compared to Nine Months Ended June 30, 2015***

*Revenue.* Revenue decreased \$79.9 million, or 25.1%, to \$237.9 million for the nine months ended June 30, 2016 from \$317.8 million for the nine months ended June 30, 2015, due to (1) a 29.3% decrease, or \$51.3 million, in our commercial marketplaces due to the sale of the Jacobs Trading Company in fiscal 2015, the wind down of the NESA refurbishment business in Canada, reduced product flows within our retail vertical, continued weakness in the energy sector, partially offset by stronger capital assets deal flow; and (2) a 24.0% decrease, or \$30.7 million, in our DoD contracts due to lower commodity prices and a shift in property mix to lower valued property provided under our Scrap and Surplus contracts, partly offset by higher service revenue. These decreases were partially offset by a 13.9% increase, or \$2.1 million, in our state and local government (GovDeals) marketplace due to an increase in the number of new sellers and additional sales volume from existing clients. The amount of gross merchandise volume decreased 23.1%, or \$145.4 million to \$482.9 million, for the nine months ended June 30, 2016 from \$628.3 million for the nine months ended June 30, 2015, due to (1) a 35.1% GMV decrease, or \$124.6 million, in our commercial marketplaces due to the sale of the Jacobs Trading Company, the wind down of the NESA business, reduced product flows within our retail vertical, and continued weakness in the energy sector; and (2) a 32.4% GMV decrease, or \$41.4 million, in our DoD contracts due to lower commodity prices and a shift in property mix to lower valued property provided under our Scrap and Surplus contracts. These GMV decreases were partially offset by a 14.1% GMV increase, or \$20.5 million, in our state and local government (GovDeals) marketplace due to an increase in the number of new sellers and additional sales volume from existing clients.

*Cost of goods sold.* Cost of goods sold decreased \$26.7 million, or 20.1%, to \$106.1 million for the nine months ended June 30, 2016 from \$132.8 million for the nine months ended June 30, 2015. This decrease is primarily attributed to the sale of the Jacobs Trading Company and reduced product flows within our retail vertical, as well as the wind down of the NESA refurbishment business in Canada. This decrease was partially offset by the increase in the price we pay for inventory under the current Surplus Contract as well as a greater mix of deals in our commercial marketplaces in which we act as principal. In line with these changes, cost of goods sold increased as a percentage of revenue to 44.6%, from 41.8%.

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*Profit-sharing distributions.* Profit-sharing distributions decreased \$16.0 million, or 68.0%, to \$7.5 million for the nine months ended June 30, 2016 from \$23.5 million for the nine months ended June 30, 2015. As a percentage of revenue, profit-sharing distributions decreased to 3.2% from 7.4%. This is due to decreases in property flow from the DoD in our scrap business and lower commodity prices.

*Technology and operations expenses.* Technology and operations expenses decreased \$6.4 million, or 8.4%, to \$70.0 million for the nine months ended June 30, 2016 from \$76.4 million for the nine months ended June 30, 2015, due to the sale of the Jacobs Trading Company, and the wind down of the NESAs business. As a percentage of revenue, technology and operations expenses increased to 29.4% from 24.0% primarily as a result of the decrease in revenue described above.

*Sales and marketing expenses.* Sales and marketing expenses decreased \$2.9 million, or 9.1%, to \$28.6 million for the nine months ended June 30, 2016 from \$31.4 million for the nine months ended June 30, 2015, primarily due to bad debt expense related to the Jacobs Trading Company in fiscal 2015, as well as staff reductions. As a percentage of revenue, sales and marketing expenses increased to 12.0% from 9.9% primarily as a result of the decrease in revenue described above.

*General and administrative expenses.* General and administrative expenses decreased \$1.8 million, or 5.7%, to \$29.6 million for the nine months ended June 30, 2016 from \$31.4 million for the nine months ended June 30, 2015 due to the wind down of the NESAs refurbishment business in Canada and the sale of the Jacobs Trading Company in fiscal 2015. As a percentage of revenue, general and administrative expenses increased to 12.4% from 9.8% primarily as a result of the decrease in revenue described above.

*Depreciation and amortization expenses.* Depreciation and amortization expenses decreased \$2.3 million, or 31.7%, to \$4.9 million for the nine months ended June 30, 2016 from \$7.2 million for the nine months ended June 30, 2015, as a result of reclassifying prior year amortization of \$1.2 million for specific contract intangibles to this line item, as well as certain software purchases having reached the end of their amortization period, and the sale of the Jacobs Trading Company in September 2015 and its related depreciable assets.

*Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets.* Acquisition costs and related fair value adjustments and impairment of goodwill and long-lived assets decreased \$96.2 million, or 100.0% to zero for the nine months ended June 30, 2016 from \$96.2 million for the nine months ended June 30, 2015, due to the write-down of impaired goodwill and the remaining unamortized expense related to the Jacobs Trading Company acquisition contract intangible asset due to the early termination of the Wal-Mart contract in December 2014.

*Interest and other (expense) income, net.* Interest and other (expense) income, net increased \$0.3 million, to \$0.2 million of income for the nine months ended June 30, 2016 from an expense of (\$0.1) for the nine months ended June 30, 2015. Interest and other (expense) income, net included impacts of foreign currency fluctuations.

*Benefit for income taxes.* Benefit for income taxes decreased \$17.8 million, or 88.0%, to \$2.4 million for nine months ended June 30, 2016 from \$20.2 million for the nine months ended June 30, 2015, primarily due to a decrease in losses from FY15 generated from the the write-down of impaired goodwill and long-lived assets in the nine months ended June 30, 2015.

*Net loss.* Net loss decreased \$55.0 million, or 90.0%, to \$6.2 million for the nine months ended June 30, 2016 from \$61.1 million for the nine months ended June 30, 2015, primarily as a result of the write-down of impaired goodwill and long-lived assets in the nine months ended June 30, 2015.

## Liquidity and Capital Resources

Historically, our primary cash needs have been working capital (including capital used for inventory purchases), which we have funded primarily through cash generated from operations. As of June 30, 2016, we had approximately \$129.9 million in cash and cash equivalents. We do not expect the termination of the Senior Credit Facility to have a material effect on our liquidity or financial position. We have continued to advance the design and development of our LiquidityOne platform, services and analytical tools to empower our clients to maximize bottom-line return, and transform their supply chain into a high-performing business function. We will continue to incur additional costs throughout the duration of this initiative to implement the new platform and educate our employees and clients about the initiative. As part of this process, we have invested in new business ventures, such as our IronDirect marketplace in the construction vertical. We expect that the IronDirect marketplace may generate future synergies with our other marketplaces when IronDirect customers dispose of the construction equipment purchased from this marketplace.

We did not record a provision for deferred U.S. tax expense on the undistributed earnings of foreign subsidiaries since we intend to indefinitely reinvest the earnings of these foreign subsidiaries outside the U.S. The amount of such undistributed foreign earnings was approximately \$11.1 million as of June 30, 2016. As of June 30, 2016 and September 30, 2015, approximately \$21.5 million and \$23.6 million, respectively, of cash and cash equivalents was held overseas and not available to fund domestic operations without incurring taxes upon repatriation.

We are authorized to repurchase issued and outstanding shares of our common stock under a share repurchase program approved by our Board of Directors. Share repurchases may be made through open market purchases, privately negotiated transactions or otherwise, at times and in such amounts as management deems appropriate. The timing and actual number of shares repurchased will depend on a variety of factors including price, corporate and regulatory requirements and other market conditions. The repurchase program may be discontinued or suspended at any time, and will be funded using our available cash. We did not repurchase shares under this program during the nine months ended June 30, 2016. As of June 30, 2016, we may repurchase an additional \$10.1 million shares under this program.

Most of our sales are recorded subsequent to receipt of payment authorization, utilizing credit cards, wire transfers and PayPal, an Internet based payment system, as methods of payments. As a result, we are not subject to significant collection risk, as goods are generally not shipped before payment is received.

**Changes in Cash Flows: Nine Months Ended June 30, 2016 Compared to Nine Months Ended June 30, 2015**

Net cash provided by operating activities was \$38.6 million for the nine months ended June 30, 2016 and \$39.5 million for the nine months ended June 30, 2015. The \$0.9 million decrease in cash provided by operations between periods was primarily attributable to an overall decrease of approximately \$18.8 million in net income including non-cash adjustments offset by an increase in cash flows from changes in working capital of approximately \$17.9 million. For the nine months ended June 30, 2016, net cash provided by operating activities primarily consisted of \$34.0 million related to the recovery of prior year income taxes, netted with estimated taxes for fiscal 2016. This cash benefit resulted from the tax loss on the recent sale of the Jacobs Trading Company. Another significant change over prior year relates to the \$42.5 million decrease in inventory during fiscal 2015 resulting from the loss of the Wal-Mart Agreement and decreased property flows from the DoD under the surplus contract.

Net cash used in investing activities was \$4.6 million for the nine months ended June 30, 2016 and \$5.4 million for the nine months ended June 30, 2015. Net cash used in investing activities for the nine months ended June 30, 2016 consisted primarily of expenditures of \$4.6 million for capitalized software, purchases of equipment and leasehold improvements. Net cash used in investing activities for the nine months ended June 30, 2015 consisted primarily of capital expenditures of \$5.4 million for purchases of equipment and leasehold improvements.

Net cash used by financing activities was \$0.1 million for the nine months ended June 30, 2016 and net cash provided by financing activities was \$0.1 million for the nine months ended June 30, 2015. Net cash provided by financing activities for the nine months ended June 30, 2015 consisted primarily of proceeds from the exercise of common stock options.

*Capital Expenditures.* Our capital expenditures consist primarily of capitalized software, computers and purchased software, office equipment, furniture and fixtures, and leasehold improvements. The timing and volume of such capital expenditures in the future will be affected by the addition of new customers or expansion of existing customer relationships. We intend to fund those expenditures primarily from operating cash flows. Our capital expenditures for the nine months ended June 30, 2016 were \$4.6 million. As of June 30, 2016, we had no outstanding commitments for capital expenditures.

Effective March 25, 2016, the Company terminated its \$75 million a senior credit facility. Borrowings under the Agreement bore interest at an annual rate equal to the 30 day LIBOR rate plus 1.25% (1.608% at December 31, 2015) due monthly. The Company's borrowing availability under the Facility upon termination was \$37.5 million. There were no outstanding borrowings under the Facility at the time of its termination.

We believe that our existing cash and cash equivalents will be sufficient to meet our anticipated cash needs for at least the next 12 months. Our future capital requirements will depend on many factors including our rate of revenue growth, the timing and extent of spending to support development efforts, the expansion of sales and marketing activities, the development and deployment of new marketplaces, the introduction of new value added services and the costs to establish additional distribution centers. Although we are currently not a party to any definitive agreement with respect to potential investments in, or acquisitions of, complementary businesses, products or technologies, we may enter into these types of arrangements in the future, which could also require us to seek additional equity or debt financing. The sale of additional equity securities or convertible debt securities would result in additional dilution to our stockholders. Additional debt would result in increased interest expense and could result in covenants that would restrict our operations. There is no assurance that such financing, if required, will be available in amounts or on terms acceptable to us, if at all.

**Off-Balance Sheet Arrangements**

We do not have any transactions, obligations or relationships that could be considered material off-balance sheet arrangements.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk.**

*Interest rate sensitivity.* We had no debt as of June 30, 2016, and thus do not have any related interest rate exposure. Our investment policy requires us to invest funds in excess of current operating requirements. The principal objectives of our investment activities are to preserve principal, provide liquidity and maximize income consistent with minimizing risk of material loss.

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*Exchange rate sensitivity.* We consider our exposure to foreign currency exchange rate fluctuations to be minimal, as approximately 12.4% percent of our sales are denominated in foreign currencies. We have not engaged in any hedging or other derivative transactions to date.

**Item 4. Controls and Procedures.**

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer, Chief Financial Officer, and Chief Accounting Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

During the most recent fiscal quarter, there has not occurred any change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

As of June 30, 2016, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer, our Chief Financial Officer, and our Chief Accounting Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our Chief Executive Officer, Chief Financial Officer, and Chief Accounting Officer concluded that our disclosure controls and procedures were effective and were operating to provide reasonable assurance that the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer, principal financial officer, and principal accounting officer, as appropriate to allow timely decisions regarding required disclosure.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

From time to time, we may become involved in litigation relating to claims arising in the ordinary course of our business. On July 14, 2014, Leonard Howard filed a putative class action complaint in the United States District Court for the District of Columbia against the Company and its chief executive officer, chief financial officer, and chief accounting officer, on behalf of stockholders who purchased the Company's common stock between February 1, 2012, and May 7, 2014. The complaint alleges that defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 by, among other things, misrepresenting the Company's growth initiative, growth potential, and financial and operating conditions, thereby artificially inflating its share price, and seeks unspecified compensatory damages and costs and expenses, including attorneys' and experts' fees. On October 14, 2014, the Court appointed Caisse de Dépôt et Placement du Québec and the Newport News Employees' Retirement Fund as co-lead plaintiffs. The Plaintiffs filed an amended complaint on December 15, 2014, which alleges substantially similar claims but which does not name the chief accounting officer as a defendant. On March 2, 2015, the Company moved to dismiss the amended complaint for failure to state a claim or plead fraud with the requisite particularity. On March 31, 2016, the Court granted that motion in part and denied it in part. On May 16, 2016, the Company answered the amended complaint, and on June 7, 2016, the Court entered a scheduling order in this action that calls for Plaintiffs to fully brief any motion for class certification by February 17, 2017, for fact discovery to be completed by June 30, 2017, and for expert discovery to be completed by December 22, 2017. The Company believes the allegations in the amended complaint are without merit and cannot estimate a range of potential liability, if any, at this time.

On June 8, 2016, Harold Slingerland filed a putative derivative complaint in the Superior Court for the District of Columbia, purportedly on behalf of the Company against individuals who served on the Company's Board of Directors between February 1, 2012, and May 7, 2014. The complaint in this action asserts that, among other things, the defendants breached their fiduciary duties to the Company and its stockholders by supposedly causing or allowing the Company to make the same misstatements that are alleged in the putative class action complaint and exposing the Company to potentially significant costs and expenses in connection with defending that action. The complaint seeks monetary damages from the defendants other than Liquidity Services, changes to Liquidity Services' corporate governance, disgorgement of any profits, benefits, or other compensation obtained by the director defendants, and an award of attorneys' fees, costs, and expenses for plaintiff's counsel. There may be additional putative derivative complaints filed in the future asserting similar claims.

**Item 1A. Risk Factors.**

*In addition to the other information set forth in this report, you should carefully consider the factors set forth in Part I, "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the year ended September 30, 2015, which could materially affect our business, financial condition or future results. The risks described in our Form 10-K are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.*

**Item 5. Other Information**

On August 2, 2016, the Board of Directors of Liquidity Services, Inc. (the "Company") approved an amendment to the Company's Amended and Restated By-Laws, effective immediately, to include a new Article 7, which provides that, unless the Company, in writing, selects or consents to the selection of an alternative forum, the sole and exclusive forum for certain types of legal action will be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another state court or a federal court located within the State of Delaware). In addition, the Amended and Restated By-Laws provide that any person bringing any action the subject matter of which is within the scope of the prior sentence in a court other than those specified, will be deemed to have consented to the personal jurisdiction of the courts specified in connection with any action brought to enforce the forum selection clause.

The foregoing description of the amendment to the Amended and Restated By-Laws is qualified in its entirety by reference to the text of the Amended and Restated By-Laws, which are filed as Exhibit 3.2 to this Quarterly Report and incorporated herein by reference.

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**Item 6. Exhibits.**

<u>Exhibit No.</u>	<u>Description</u>
3.1	Fourth Amended and Restated Certificate of Incorporation, incorporated herein by reference to Exhibit 3.1 to Amendment No. 2 to the Company's Registration Statement on Form S-1 (Registration No. 333-129656), filed with the SEC on January 17, 2006.
3.2	Amended and Restated Bylaws dated August 2, 2016.
10.1	Executive Employment Agreement between the Company and William P. Angrick, dated as of June 13, 2016, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the SEC on June 17, 2016.#
10.2	Amendment to Executive Employment Agreement between the Company and Leoncio Casusol, dated as of June 13, 2016, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the SEC on June 17, 2016.#
10.3	Amendment to Executive Employment Agreement between the Company and Gardner H. Dudley, dated as of June 13, 2016, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the SEC on June 17, 2016.#
10.4	Executive Employment Agreement by and between the Company and Mark A. Shaffer, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the SEC on July 13, 2016.#
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934.
31.3	Certification of Chief Accounting Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934.
32.1	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.3	Certification of Chief Accounting Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following materials from the Registrant's Quarterly Report on Form 10-Q for the quarter ended December 31, 2015, formatted in Extensible Business Reporting Language (XBRL): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Changes in Stockholders' Equity, (iv) Consolidated Statements of Cash Flows, and (v) Notes to Consolidated Financial Statements.

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# Designates management or compensation plans.



**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) 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 on August 4, 2016.

LIQUIDITY SERVICES, INC.  
(Registrant)

By: /s/ William P. Angrick, III  
William P. Angrick, III  
*Chairman of the Board of Directors  
and Chief Executive Officer*

By: /s/ Jorge A. Celaya  
Jorge A. Celaya  
*Executive Vice President and Chief Financial Officer*

By: /s/ Michael Sweeney  
Michael Sweeney  
*Vice President and Chief Accounting Officer*

AMENDED AND RESTATED  
BY-LAWS  
OF  
LIQUIDITY SERVICES, INC.

Dated August 2, 2016

**BY-LAWS**

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AMENDED AND RESTATED  
BY-LAWS  
OF  
LIQUIDITY SERVICES, INC. (the "Corporation")

**ARTICLE 1 - Stockholders**

**1.1 Place of Meetings.** All meetings of stockholders shall be held at such place, if any, within or without the State of Delaware as may be designated from time to time by the board of directors of the Corporation (the "Board of Directors" or the "Board"), the Chairman of the Board (if any) or the President or, if not so designated, at the principal office of the Corporation. In lieu of holding a meeting of stockholders at a designated place, the Board of Directors may, in its sole discretion, determine that any meeting of stockholders may be held solely by means of remote communication.

**1.2 Annual Meeting.** The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date to be fixed by the Board of Directors, the Chairman of the Board (if any) or the President (which date shall not be a legal holiday in the place, if any, where the meeting is to be held) at the time to be fixed by the Board of Directors, the Chairman of the Board or the President and stated in the notice of the meeting.

**1.3 Special Meetings.** Special meetings of stockholders may be called at any time by a majority of the total number of directors constituting the whole Board of Directors, the Chairman of the Board (if any) or the President, but such special meeting may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. The notice of special meeting shall describe the purpose of the meeting, and the place (if any), date and time of such meeting as determined by the Board of Directors.

**1.4 Notice of Meetings.** Except as otherwise provided by law, written notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place (if any), date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on

the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

**1.5 Voting List.** It shall be the duty of the Secretary or other officer of the Corporation who shall have charge of the stock ledger of the Corporation to prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this Section 1.5 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time of the meeting, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible network, and the information required to access such list shall be provided with the notice of the meeting. The stock ledger shall be the only evidence of the identity of the stockholders entitled to examine such list.

**1.6 Quorum.** Except as otherwise provided by law, the Certificate of Incorporation, these By-Laws, the rules or regulations of any stock exchange or quotation system applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities, the holders of a majority of the voting power of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at the meeting, present in person, or represented by proxy, shall constitute a quorum for the transaction of business. Shares held by brokers which such brokers are prohibited from voting (pursuant to their discretionary authority on behalf of beneficial owners of such shares who have not submitted a proxy with respect to such shares) on some or all of the matters before the stockholders, but which shares would otherwise be entitled to vote at the meeting (“Broker Non-Votes”) shall be counted, for the purpose of determining the presence or absence of a quorum, both (a) toward the total voting power of the shares of capital stock of the Corporation and (b) as being represented by proxy.

If a quorum has been established for the purpose of conducting the meeting, a quorum shall be deemed to be present for the purpose of all votes to be conducted at such meeting, provided that where a separate vote by a class or classes, or series thereof, is required, a majority of the voting power of the shares of such class or classes, or series, present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. If a quorum shall fail to attend any meeting, the chairman of the meeting or the holders of a majority of the voting power of the shares of stock entitled to vote who are present, in person, by remote communication or by proxy, may adjourn the meeting to another place, date, or time.

**1.7 Meeting by Remote Communication.** If authorized by the Board of Directors, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication, participate in the meeting and be deemed present in person and vote at the meeting, whether such meeting is to be held in a designated place or solely by means of remote communication, provided that (a) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (b) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings in the meeting substantially concurrently with such proceedings and (c) if the stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

**1.8 Adjournments.** Without limiting the power of the chairman of any meeting to adjourn the meeting in the manner contemplated by Section 1.13 hereof, any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these By-Laws by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or, if no stockholder is present, by any officer entitled to preside at or to act as Secretary of such meeting. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting.

**1.9 Voting and Proxies.** At any meeting of stockholders, each stockholder shall have one vote for each share of stock entitled to vote at such meeting held of record by such stockholder, unless otherwise provided by law or in the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person (including by means of remote communications, if any) or may authorize another person or persons to vote or act for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Corporation in a manner permitted by law or specified by the Board of Directors. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this Section 1.9 may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or reproduction shall be a complete reproduction of the entire original writing or transmission.

**1.10 Action at Meeting.** Except as otherwise provided by the Certificate of Incorporation, these Bylaws, the rules or regulations of any stock exchange or quotation system applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities:



(a) Directors shall be elected by a plurality of votes cast by stockholders present in person or represented by proxy at the meeting and entitled to vote in the election; and

(b) Whenever any corporate action other than the election of directors is to be taken, it shall be authorized by a majority of votes cast by stockholders present in person or represented by proxy at the meeting and entitled to vote on the matter.

For purposes of subsections (a) and (b) of this Section 1.10, neither abstentions as to a particular matter nor Broker Non-Votes represented at the meeting but not permitted to vote on a particular matter shall be counted, with respect to the vote on such matter, in the number of (i) votes cast, (ii) votes cast affirmatively, or (iii) votes cast negatively.

#### **1.11 Introduction of Business at Meetings.**

(a) Annual meetings of stockholders.

(1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders only (A) pursuant to the Corporation's notice of meeting (or any supplement thereto), (B) by or at the direction of the Board of Directors or (C) by any stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 1.11 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.11.

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (C) of paragraph (a)(1) of this Section 1.11, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business other than the nominations of persons for election to the Board of Directors must constitute a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth day nor earlier than the close of business on the one hundred twentieth day prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than thirty days before or more than seventy days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth day prior to such annual meeting and not later than the close of business on the later of the ninetieth day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made by the Corporation). For purposes of the first annual meeting of stockholders of the Corporation held after an initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock of the corporation to the public (the "Initial Public Offering"), the first anniversary of such annual meeting shall be deemed to

be January 15 of the following year. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (a) as to each person whom the stockholder proposes to nominate for election as a director (i) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and (ii) such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected; (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, and (iv) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (b) otherwise to solicit proxies from stockholders in support of such proposal or nomination. The foregoing notice requirements shall be deemed satisfied by a stockholder if the stockholder has notified the Corporation of his or her intention to present a proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

(3) Notwithstanding anything in the second sentence of paragraph (a)(2) of this Section 1.11 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at an annual meeting is increased and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice

required by this Section 1.11 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 1.11 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 1.11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice in the same form as required by paragraph (a)(2) of this Section 1.11 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth day prior to such special meeting and not later than the close of business on the later of the ninetieth day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 1.11 shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.11. Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.11 and, if any proposed nomination or business is not in compliance herewith, to declare that such defective proposal or nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 2.8, if the stockholder (or a qualified representative of the stockholder) does not appear in person at the annual or special meeting of stockholders of the Corporation to present a nomination or business, such nomination shall be disregarded and such proposed business shall

not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(2) For purposes of this Section 1.11, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 1.11, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 1.11 shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

**1.12 Action without Meeting.** Stockholders of the Corporation may not take any action by written consent in lieu of a meeting.

**1.13 Conduct of Meetings.**

(a) **Chairman of Meeting.** Meetings of the stockholders shall be presided over by the Chief Executive Officer, if any, or in the Chief Executive Officer’s absence, by the Chairman of the Board, if any, or in the Chairman’s absence by the Vice Chairman of the Board, if any, or in the Vice Chairman’s absence by the President, or in the President’s absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary’s absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) **Rules, Regulations and Procedures.** The Board of Directors of the Corporation may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting and to prescribe such rules, regulations and procedures, which need not be in writing, and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting and to maintain order and safety. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at

or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; (v) rules and procedures governing speeches and debate, including, without limitation, procedures for access to microphones and limitations on time allotted to questions or comments by participants; and (vi) restrictions on dissemination of solicitation materials and use of audio or visual recording devices at the meeting. In addition, the chairman of any meeting of stockholders shall have the right and authority to adjourn the meeting without a vote of the stockholders, whether or not there is a quorum present. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) Closing of Polls. The chairman of the meeting of stockholders shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. If no announcement is made, the polls shall be deemed to have opened when the meeting is convened and closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) Inspectors of Election. In advance of any meeting of stockholders, the Board of Directors, the Chairman of the Board or the President shall appoint one or more inspectors or election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law.

## **ARTICLE 2 - Directors**

**2.1 General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Corporation except as otherwise provided by law, the Certificate of Incorporation or these By-Laws.

**2.2 Number, Election and Qualification.** The number of directors which shall constitute the whole Board of Directors shall be determined from time to time by resolution of the Board of Directors, but in no event shall be less than three. The number of directors may be decreased at any time and from time to time by a majority of the directors then in office, but only to eliminate vacancies existing by reason of the death, resignation or removal of one or more directors. The directors shall be elected at the annual meeting of stockholders by such stockholders as have the right to vote on such election. Directors need not be stockholders of the Corporation.

**2.3 Vacancies.** Subject to the rights of holders of any class or series of capital stock then outstanding to elect directors under specified circumstances, any vacancy in the Board of Directors or newly-created directorship, however occurring, including a newly-created directorship resulting from an enlargement of the Board of Directors, may be filled only by vote of a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, if applicable, and a director chosen to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal.

**2.4 Resignation.** Any director may resign at any time by giving notice in writing or by electronic transmission of his or her resignation to the Corporation at its principal office or to the Chief Executive Officer or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

**2.5 Regular Meetings.** Regular meetings of the Board of Directors may be held without notice at such time and place, if any, either within or without the State of Delaware, as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place, if any, as the annual meeting of stockholders.

**2.6 Special Meetings.** Special meetings of the Board of Directors may be held at any time and place, if any, within or without the State of Delaware, designated in a call by the Chairman of the Board (if any), the President, two or more directors, or by one director in the event that there is only a single director in office.

**2.7 Notice of Special Meetings.** Notice of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (i) by giving notice at least 48 hours in advance of the meeting to such director in person, by telephone or to an electronic mail address at which director has agreed to receive electronic mail notice, (ii) by sending at least 48 hours in advance of the meeting a telegram or delivering written notice by fax to a facsimile transmission number at which director has agreed to receive notice or by hand to his or her address for receipt of notice on record with the Corporation, or (iii) by mailing written notice to his or her last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

**2.8 Meetings by Telephone or Other Methods.** Directors or any members of any committee of the Board of Directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall be deemed to constitute presence in person at such meeting.

**2.9 Quorum.** A majority of the directors at any time in office shall constitute a quorum for the transaction of business. If at any meeting of the Board of Directors there shall be

less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

**2.10 Action at Meeting.** At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those directors present shall be sufficient to take any action, unless a different vote is specified by law, the Certificate of Incorporation or these By-Laws.

**2.11 Action by Written Consent.** Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to such action in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**2.12 Committees.** The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members of such committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at such meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of the General Corporation Law of the State of Delaware, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine or as provided herein, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-Laws for the Board of Directors. If the time and place of a committee meeting is announced at a prior committee meeting at which all members are present, no further notice of the time and place of the committee meeting shall be required; otherwise, notice of such committee meeting shall be provided in the same manner as set forth in Section 2.7 with respect to Board meetings. A majority of the members of any committee shall constitute a quorum and all matters shall be determined by a majority vote of the members present. Unless otherwise provided in the Certificate of Incorporation or the resolutions of the Board of Directors designating the committee, each committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee and delegate to a subcommittee any or all the powers and authority of the committee.

**2.13 Compensation of Directors.** Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the

Corporation or any of its parent or subsidiary corporations in any other capacity and receiving compensation for such service.

### **ARTICLE 3 - Officers**

**3.1 Titles.** The officers of the Corporation shall consist of a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors may determine, including, but not limited to, a Chairman of the Board, a Vice-Chairman of the Board, and one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

**3.2 Election.** The President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

**3.3 Qualification.** No officer need be a stockholder. Any two or more offices may be held by the same person.

**3.4 Tenure.** Except as otherwise provided by law, by the Certificate of Incorporation or by these By-Laws, each officer shall hold office until his or her successor is elected and qualified, unless a different term is specified in the vote choosing or appointing such officer, or until his or her earlier death, resignation or removal.

**3.5 Resignation and Removal.** Any officer may resign by delivering his or her resignation in writing or by electronic transmission to the Chairman of the Board (if any), to the Board of Directors at a meeting thereof, to the Corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of directors then in office.

Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following his or her resignation or removal, or any right to damages on account of such removal, whether his or her compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the Corporation.

**3.6 Vacancies.** The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of his or her predecessor and until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal.

**3.7 Chairman of the Board and Vice-Chairman of the Board.** The Board of Directors may appoint from its members a Chairman of the Board and a Vice-Chairman of the Board. If the Board of Directors appoints a Chairman of the Board, he or she shall preside at all meetings of the Board of Directors and stockholders at which he or she is present and shall



perform such duties and possess such powers as are designated by the Board of Directors. If the Board of Directors appoints a Vice-Chairman of the Board, he or she shall, in the absence or disability of the Chairman of the Board, perform the duties and exercise the powers of the Chairman of the Board and shall perform such other duties and possess such other powers as may from time to time be designated by the Board of Directors.

**3.8 Chief Executive Officer.** The Chief Executive Officer shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Corporation. The Chief Executive Officer shall exercise the powers and authority and perform all of the duties commonly incident to such office and shall perform such other duties as the Board of Directors shall specify from time to time.

**3.9 President.** The President shall be charged with general supervision of the management and policy of the Corporation, subject to the authority of the Chief Executive Officer. The President shall exercise the powers and authority and perform all of the duties commonly incident to such office and shall perform such other duties as the Board of Directors or the Chief Executive Officer shall specify from time to time.

**3.10 Chief Financial Officer.** The Chief Financial Officer shall render statements of the financial affairs of the Corporation in such form and as often as required by the Board of Directors or any committee thereof, the Chief Executive Officer or the President. The Chief Financial Officer will have responsibility for the custody of all funds and securities belonging to the Corporation and for the receipt, deposit, or disbursement of funds and securities under the direction of the Board of Directors. The Chief Financial Officer will cause to be maintained true accounts of all receipts and disbursements and will make reports of these to the Board of Directors, upon its request, and to the President, upon his or her request. The Chief Financial Officer will have any other authority and will perform any other duties that the Board of Directors may delegate to him or her from time to time.

**3.11 Vice Presidents.** Any Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer, the President (if the President is not the Chief Executive Officer), and then the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors), shall perform the duties of the Chief Executive Officer and, when so performing, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

**3.12 Secretary and Assistant Secretaries.** The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as

required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

**3.13 Treasurer and Assistant Treasurers.** The Treasurer shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the Corporation, to deposit funds of the Corporation in depositories selected in accordance with these By-Laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts for such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the Corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

**3.14 Salaries.** Officers of the Corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

**3.15 Contracts.** Except as otherwise required by law, the Certificate of Incorporation or these By-Laws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers (including any assistant officer) of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The Chief Executive Officer, the President or any Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors, the Chief Executive Officer, the President or any Vice President of the Corporation may delegate contractual power to others under his or her supervision, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

**3.16 Action with Respect to Securities of Other Corporations or Entities.** Unless otherwise provided by resolution adopted by the Board of Directors, the Chief Executive Officer,

the President or any Vice President, or any attorney or attorneys or agent or agents of the Corporation appointed by any of them, shall have the power, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities or interests in any other corporation or entity, any of whose stock or other securities or interests may be held by the Corporation, at meetings of the holders of the stock or other securities or interests, of such other corporation or entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation or entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

#### **ARTICLE 4 - Capital Stock**

**4.1 Issuance of Stock.** Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the Corporation or the whole or any part of any issued, authorized capital stock of the Corporation held in its treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

**4.2 Certificates of Stock.** To the extent required by applicable law, the rules or regulations of any stock exchange or quotation system applicable to the Corporation, or any other regulation applicable to the Corporation or its securities, every holder of stock of the Corporation shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, certifying the number and class or series of shares owned by such stockholder in the Corporation. Each such certificate shall be signed by, or in the name of the Corporation by, the Chairman or Vice-Chairman, if any, of the Board of Directors, or the President or a Vice President, and the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation. Any or all of the signatures on such certificate may be a facsimile.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, the By-Laws, applicable securities laws or any agreement among any number of shareholders or among such holders and the Corporation shall have conspicuously noted on the face or back of such certificate either the full text of such restriction or a statement of the existence of such restriction.

**4.3 Transfers.** Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate representing such shares, properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the Corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-Laws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of

any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these By-Laws.

**4.4 Lost, Stolen or Destroyed Certificates.** The Corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen, or destroyed, upon such terms and conditions as the President may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity as the President may require for the protection of the Corporation or any transfer agent or registrar.

**4.5 Record Date.** The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, then (a) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held, and (b) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

#### **ARTICLE 5 - Indemnification and Insurance**

##### **5.1 Indemnification.**

(a) To the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, and subject to Section 5.3 herein, the Corporation shall indemnify any person who is made or threatened to be made a party to or is otherwise involved (as a witness or otherwise) in any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter, a "Proceeding"), by reason of the fact that such person is or was a director or officer of the Corporation, or while serving as a director or officer of the Corporation, is or was serving at the request of Corporation as a director, officer, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise, including service with respect to an employee benefit plan (collectively, "Another Enterprise"), against expenses (including attorneys' fees), judgments, fines (including ERISA excise taxes or penalties) and amounts paid in settlement actually and reasonably incurred by him or her in connection with such Proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the

best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

(b) Anything in this Section 5.1 to the contrary notwithstanding, if a person was or is a party or was or is threatened to be made a party to any Proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, then the Corporation shall not indemnify such person for any judgment, fines, or amounts paid in settlement to the Corporation in connection with such Proceeding. To the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, and subject to Section 5.3 herein, the Corporation shall indemnify any person who is made or threatened to be made a party to or is otherwise involved (as a witness or otherwise) in any threatened, pending, or completed Proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Corporation or while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such Proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation; provided, however, that no indemnification for such expenses shall be made in respect of any claim, issue, or matter in such Proceeding as to which the person shall have been adjudged liable to the Corporation unless (and only to the extent that) the Court of Chancery of the State of Delaware or the court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

(c) To the extent that a present or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any threatened, pending, or completed Proceeding referred to in Section 145(a) or (b) of the General Corporation Law of the State of Delaware, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

(d) The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person seeking indemnification did not act in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

**5.2 Advancement of Expenses.** Subject to Section 5.3 herein, with respect to any person who is made or threatened to be made a party to or is otherwise involved (as a witness or otherwise) in any threatened, pending, or completed Proceeding (including, without limitation, any Proceeding by or in the right of the Corporation to procure a judgment in its favor) by reason of the fact that such person is or was a director or officer of the Corporation or while serving as a

director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, the Corporation shall pay the expenses (including attorneys' fees) incurred by such person in defending any such Proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that any advancement of expenses shall be made only upon receipt of an undertaking (hereinafter an "undertaking") by such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such person is not entitled to be indemnified for such expenses under this Article 5 or otherwise.

**5.3 Actions Initiated Against the Corporation.** Anything in Section 5.1 or Section 5.2 herein to the contrary notwithstanding, except as provided in Section 5.5(b) herein, with respect to a Proceeding initiated against the Corporation by a director or officer of the Corporation (whether initiated by such person in such capacity or in any other capacity, including as a director, officer, employee, or agent of Another Enterprise), the Corporation shall not be required to indemnify or to advance expenses (including attorneys' fees) to such person in connection with prosecuting such Proceeding (or part thereof) or in defending any counterclaim, cross-claim, affirmative defense, or like claim of the Corporation in such Proceeding (or part thereof) unless such Proceeding was authorized by the Board of Directors of the Corporation.

**5.4 Contract Rights.** With respect to any person who is made or threatened to be made a party to or is otherwise involved (as a witness or otherwise) in any threatened, pending, or completed Proceeding, by reason of the fact that such person is or was a director or officer of the Corporation, or while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise, the rights to indemnification and to the advancement of expenses conferred in Sections 5.1 and 5.2 herein shall be contract rights. Any amendment, repeal, or modification of, or adoption of any provision inconsistent with, this Article 5 (or any provision hereof) shall not adversely affect any right to indemnification or advancement of expenses granted to any person pursuant hereto with respect to any act or omission of such person occurring prior to the time of such amendment, repeal, modification, or adoption (regardless of whether the Proceeding relating to such acts or omissions is commenced before or after the time of such amendment, repeal, modification, or adoption).

**5.5 Claims.**

(a) If (X) a claim under Section 5.1 herein with respect to any right to indemnification is not paid in full by the Corporation within sixty days after a written demand has been received by the Corporation or (Y) a claim under Section 5.2 herein with respect to any right to the advancement of expenses is not paid in full by the Corporation within thirty days after a written demand has been received by the Corporation, then the person seeking to enforce a right to indemnification or to an advancement of expenses, as the case may be, may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim.

(b) If successful in whole or in part in any suit brought pursuant to Section 5.5(a), or in a suit brought by the Corporation to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), the person seeking to enforce a right to indemnification or an advancement of expenses hereunder or the person from whom the

Corporation sought to recover an advancement of expenses, as the case may be, shall be entitled to be paid by the Corporation the reasonable expenses (including attorneys' fees) of prosecuting or defending such suit.

(c) In any suit brought by a person seeking to enforce a right to indemnification hereunder (but not a suit brought by a person seeking to enforce a right to an advancement of expenses hereunder), it shall be a defense that the person seeking to enforce a right to indemnification has not met any applicable standard for indemnification under applicable law. With respect to any suit brought by a person seeking to enforce a right to indemnification or right to advancement of expenses hereunder or any suit brought by the Corporation to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), neither (i) the failure of the Corporation to have made a determination prior to commencement of such suit that indemnification of such person is proper in the circumstances because such person has met the applicable standards of conduct under applicable law, nor (ii) an actual determination by the Corporation that such person has not met such applicable standards of conduct, shall create a presumption that such person has not met the applicable standards of conduct or, in a case brought by such person seeking to enforce a right to indemnification, be a defense to such suit.

(d) In any suit brought by a person seeking to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), the burden shall be on the Corporation to prove that the person seeking to enforce a right to indemnification or to an advancement of expenses or the person from whom the Corporation seeks to recover an advancement of expenses is not entitled to be indemnified, or to such an advancement of expenses, under this Article 5 or otherwise.

**5.6 Determination of Entitlement to Indemnification.** Any indemnification required or permitted under this Article 5 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because he or she has met all applicable standards of conduct set forth in this Article 5 and Section 145 of the General Corporation Law of the State of Delaware. Such determination shall be made, with respect to a person who is a director or officer of the Corporation at the time of such determination, (i) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum; (ii) by a committee of such directors designated by majority vote of such directors, even though less than a quorum; (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or (iv) by the stockholders. Such determination shall be made, with respect to any person who is not a director or officer of the Corporation at the time of such determination, in the manner determined by the Board of Directors (including in such manner as may be set forth in any general or specific action of the Board of Directors applicable to indemnification claims by such person) or in the manner set forth in any agreement to which such person and the Corporation are parties.

**5.7 Non-Exclusive Rights.** The indemnification and advancement of expenses provided in this Article 5 shall not be deemed exclusive of any other rights to which any person may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors, or

otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be such director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

**5.8 Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of Another Enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article 5 or otherwise.

**5.9 Severability.** If any provision or provisions of this Article 5 shall be held to be invalid, illegal, or unenforceable for any reason whatsoever: (1) the validity, legality, and enforceability of the remaining provisions of this Article 5 (including, without limitation, each portion of any paragraph or clause containing any such provision held to be invalid, illegal, or unenforceable, that is not itself held to be invalid, illegal, or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Article 5 (including, without limitation, each such portion of any paragraph or clause containing any such provision held to be invalid, illegal, or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal, or unenforceable.

**5.10 Miscellaneous.** For purposes of this Article 5: (a) references to serving at the request of the Corporation as a director or officer of Another Enterprise shall include any service as a director or officer of the Corporation that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan; (b) references to serving at the request of the Corporation as a employee or agent of Another Enterprise shall include any service as an employee or agent of the Corporation that imposes duties on, or involves services by, such employee or agent with respect to an employee benefit plan; (c) a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner not opposed to the best interests of the Corporation; and (d) references to a director of Another Enterprise shall include, in the case of any entity that is not managed by a board of directors, such other position, such as manager or trustee or member of the governing body of such entity, that entails responsibility for the management and direction of such entity's affairs, including, without limitation, general partner of any partnership (general or limited) and manager or managing member of any limited liability company.

#### **ARTICLE 6 - General Provisions**

**6.1 Fiscal Year.** The fiscal year of the Corporation shall end on September 30, unless otherwise determined by resolution of the Board of Directors.

**6.2 Corporate Seal.** The corporate seal shall be in such form as shall be approved by the Board of Directors.



**6.3 Waiver of Notice.** Whenever any notice whatsoever is required to be given by law, by the Certificate of Incorporation or by these By-Laws, a waiver, signed by the person entitled to such notice or such person's duly authorized attorney, or a waiver by electronic transmission by the person entitled to such notice or such person's duly authorized attorney, or by telegraph, facsimile transmission or any other available method, whether before, at or after the time stated in such waiver shall be deemed equivalent to such notice. In addition, a person's appearance at such meeting, in person or by proxy, shall have the same effect as a written waiver of notice and shall be deemed equivalent to such notice, except that if such person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, then such person shall not be deemed to have waived notice of such meeting.

**6.4 Evidence of Authority.** A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Corporation shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action.

**6.5 Facsimile Signatures.** In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-Laws, facsimile signatures of any officer or officers of the Corporation may be used and shall have the same effect of the actual signatures.

**6.6 Reliance upon Books, Reports and Records.** Each director, each member of any committee designated by the Board of Directors, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

**6.7 Time Periods.** In applying any provision of these By-Laws that requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

**6.8 Certificate of Incorporation.** All references in these By-Laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended and in effect from time to time.

**6.9 Severability.** Any determination that any provision of these By-Laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-Laws.

**6.10 Pronouns.** All pronouns used in these By-Laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the persons or persons so designated may require.

## **ARTICLE 7 - Forum for Adjudication of Disputes**

**7.1 Forum.** Unless the Corporation, in writing, selects or consents to the selection of an alternative forum, the sole and exclusive forum for any current or former stockholder (including any current or former beneficial owner) to bring internal corporate claims (as defined below), to the fullest extent permitted by law, and subject to applicable jurisdictional requirements, shall be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another state court or a federal court located within the State of Delaware).

For purposes of this Article 7, internal corporate claims means claims, including claims in the right of the Corporation: (a) that are based upon a violation of a duty by a current or former director, officer, employee or stockholder in such capacity; or (b) as to which the General Corporation Law of the State of Delaware confers jurisdiction upon the Court of Chancery.

If any action the subject matter of which is within the scope of this Article 7 is filed in a court other than the Court of Chancery (or, if the Court of Chancery does not have jurisdiction, another state court or a federal court located within the State of Delaware) (a "**Foreign Action**") by any current or former stockholder (including any current or former beneficial owner), such stockholder shall be deemed to have consented to: (a) the personal jurisdiction of the Court of Chancery (or such other state or federal court located within the State of Delaware, as applicable) in connection with any action brought in any such court to enforce this Article 7; and (b) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

**7.2 Enforceability.** If any provision of this Article 7 shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provision in any other circumstance and of the remaining provisions of this Article 7 (including, without limitation, each portion of any sentence of this Article 7 containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby.

## **ARTICLE 8 - Amendments**

**8.1 By the Board of Directors.** Except as is otherwise set forth in these By-Laws, these By-Laws may be altered, amended or repealed, or new by-laws may be adopted, by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

**8.2 By the Stockholders.** These By-Laws may be altered, amended or repealed or new by-laws may be adopted by the affirmative vote of the holders of at least 66 2/3% of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at any regular meeting of stockholders, or at any special meeting of stockholders, provided notice of such alteration, amendment, repeal or adoption of new by-laws shall have been stated in the notice of such special meeting.

\* \* \* \* \*

**CERTIFICATION PURSUANT TO RULE 13a-14(a)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

I, William P. Angrick, III, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Liquidity Services, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 4, 2016

/s/ William P. Angrick, III

By: William P. Angrick, III

Title: *Chairman of the Board of Directors and  
Chief Executive Officer*

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**CERTIFICATION PURSUANT TO RULE 13a-14(a)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Jorge A. Celaya, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Liquidity Services, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 4, 2016

/s/ Jorge A. Celaya

By: Jorge A. Celaya

Title: *Executive Vice President and Chief Financial Officer*

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**CERTIFICATION PURSUANT TO RULE 13a-14(a)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Michael Sweeney, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Liquidity Services, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 4, 2016

/s/ Michael Sweeney

By: Michael Sweeney

Title: *Vice President and Chief Accounting Officer*

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Liquidity Services, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2016 as filed with the Securities and Exchange Commission (the "Report"), I, William P. Angrick, III, Chief Executive Officer of the Company, certify, to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 4, 2016

/s/ William P. Angrick, III

William P. Angrick, III

*Chairman of the Board of Directors and Chief Executive Officer*

THE FOREGOING CERTIFICATION IS BEING FURNISHED SOLELY PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 AND IS NOT BEING FILED AS PART OF THE FORM 10-Q OR AS A SEPARATE DISCLOSURE DOCUMENT.

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, OR OTHER DOCUMENT AUTHENTICATING, ACKNOWLEDGING, OR OTHERWISE ADOPTING THE SIGNATURE THAT APPEARS IN TYPED FORM WITHIN THE ELECTRONIC VERSION OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, HAS BEEN PROVIDED TO LIQUIDITY SERVICES, INC. AND WILL BE RETAINED BY LIQUIDITY SERVICES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Liquidity Services, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2016 as filed with the Securities and Exchange Commission (the "Report"), I, Jorge A. Celaya, Chief Financial Officer of the Company, certify, to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 4, 2016

/s/ Jorge A. Celaya

Jorge A. Celaya

*Executive Vice President and Chief Financial Officer*

THE FOREGOING CERTIFICATION IS BEING FURNISHED SOLELY PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 AND IS NOT BEING FILED AS PART OF THE FORM 10-Q OR AS A SEPARATE DISCLOSURE DOCUMENT.

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, OR OTHER DOCUMENT AUTHENTICATING, ACKNOWLEDGING, OR OTHERWISE ADOPTING THE SIGNATURE THAT APPEARS IN TYPED FORM WITHIN THE ELECTRONIC VERSION OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, HAS BEEN PROVIDED TO LIQUIDITY SERVICES, INC. AND WILL BE RETAINED BY LIQUIDITY SERVICES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Liquidity Services, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2016 as filed with the Securities and Exchange Commission (the "Report"), I, Michael Sweeney, Chief Accounting Officer of the Company, certify, to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 4, 2016

/s/ Michael Sweeney  
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Michael Sweeney  
*Vice President and Chief Accounting Officer*

THE FOREGOING CERTIFICATION IS BEING FURNISHED SOLELY PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 AND IS NOT BEING FILED AS PART OF THE FORM 10-Q OR AS A SEPARATE DISCLOSURE DOCUMENT.

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, OR OTHER DOCUMENT AUTHENTICATING, ACKNOWLEDGING, OR OTHERWISE ADOPTING THE SIGNATURE THAT APPEARS IN TYPED FORM WITHIN THE ELECTRONIC VERSION OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906, HAS BEEN PROVIDED TO LIQUIDITY SERVICES, INC. AND WILL BE RETAINED BY LIQUIDITY SERVICES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

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