

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended November 30, 2014

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: 001-16111



GLOBAL PAYMENTS INC.

(Exact name of registrant as specified in charter)

Georgia

(State or other jurisdiction of
incorporation or organization)

58-2567903

(I.R.S. Employer
Identification No.)

10 Glenlake Parkway, North Tower, Atlanta, Georgia

(Address of principal executive offices)

30328

(Zip Code)

Registrant's telephone number, including area code: (770) 829-8000

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 (§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 (Do not check if a smaller reporting company)

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 of the issuer's common stock, no par value, outstanding as of January 5, 2015 was 67,059,785.

GLOBAL PAYMENTS INC.
FORM 10-Q
For the quarterly period ended November 30, 2014

TABLE OF CONTENTS

	<u>Page</u>
PART I - FINANCIAL INFORMATION	
ITEM 1.	<u>Unaudited Consolidated Statements of Income for the three months ended November 30, 2014 and November 30, 2013</u>
	<u>3</u>
	<u>Unaudited Consolidated Statements of Income for the six months ended November 30, 2014 and November 30, 2013</u>
	<u>4</u>
	<u>Unaudited Consolidated Statements of Comprehensive Income (Loss) for the three months ended November 30, 2014 and November 30, 2013</u>
	<u>5</u>
	<u>Unaudited Consolidated Statements of Comprehensive Income for the six months ended November 30, 2014 and November 30, 2013</u>
	<u>5</u>
	<u>Consolidated Balance Sheets at November 30, 2014 (unaudited) and May 31, 2014</u>
	<u>6</u>
	<u>Unaudited Consolidated Statements of Cash Flows for the six months ended November 30, 2014 and November 30, 2013</u>
	<u>7</u>
	<u>Unaudited Consolidated Statements of Changes in Equity for the six months ended November 30, 2014 and November 30, 2013</u>
	<u>8</u>
	<u>Notes to Unaudited Consolidated Financial Statements</u>
	<u>10</u>
ITEM 2.	<u>MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</u>
	<u>26</u>
ITEM 3.	<u>QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK</u>
	<u>37</u>
ITEM 4.	<u>CONTROLS AND PROCEDURES</u>
	<u>37</u>
PART II - OTHER INFORMATION	
ITEM 1.	<u>LEGAL PROCEEDINGS</u>
	<u>38</u>
ITEM 2.	<u>UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS</u>
	<u>38</u>
ITEM 6.	<u>EXHIBITS</u>
	<u>39</u>
	<u>SIGNATURES</u>
	<u>40</u>

PART 1 - FINANCIAL INFORMATION

ITEM 1 - FINANCIAL STATEMENTS

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF INCOME
(in thousands, except per share data)

	Three Months Ended	
	November 30, 2014	November 30, 2013
Revenues	\$ 697,291	\$ 634,122
Operating expenses:		
Cost of service	257,796	235,170
Sales, general and administrative	315,511	294,045
Processing system intrusion	—	(7,000)
	573,307	522,215
Operating income	123,984	111,907
Other income (expense):		
Interest and other income	1,282	5,288
Interest and other expense	(10,350)	(8,025)
	(9,068)	(2,737)
Income before income taxes	114,916	109,170
Provision for income taxes	(29,660)	(29,313)
Net income	85,256	79,857
Less: Net income attributable to noncontrolling interests, net of income tax	(10,475)	(5,960)
Net income attributable to Global Payments	\$ 74,781	\$ 73,897
Earnings per share attributable to Global Payments:		
Basic	\$ 1.11	\$ 1.02
Diluted	\$ 1.10	\$ 1.02

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF INCOME
(in thousands, except per share data)

	Six Months Ended	
	November 30, 2014	November 30, 2013
Revenues	\$ 1,402,186	\$ 1,263,807
Operating expenses:		
Cost of service	517,635	465,915
Sales, general and administrative	636,169	585,601
Processing system intrusion	—	(7,000)
	<u>1,153,804</u>	<u>1,044,516</u>
Operating income	248,382	219,291
Other income (expense):		
Interest and other income	2,474	8,626
Interest and other expense	(21,360)	(15,904)
	<u>(18,886)</u>	<u>(7,278)</u>
Income before income taxes	229,496	212,013
Provision for income taxes	(59,806)	(60,448)
Net income	169,690	151,565
Less: Net income attributable to noncontrolling interest, net of income tax	(19,543)	(13,025)
Net income attributable to Global Payments	<u>\$ 150,147</u>	<u>\$ 138,540</u>
Earnings per share attributable to Global Payments:		
Basic	<u>\$ 2.22</u>	<u>\$ 1.90</u>
Diluted	<u>\$ 2.20</u>	<u>\$ 1.88</u>

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(in thousands)

	Three Months Ended	
	November 30, 2014	November 30, 2013
Net income	\$ 85,256	\$ 79,857
Other comprehensive income (loss):		
Foreign currency translation adjustments	(92,634)	23,948
Income tax benefit (expense) related to foreign currency translation adjustments	4,774	(283)
Unrealized losses on hedging activities	(4,419)	—
Reclassification of losses on hedging activities to interest expense	531	—
Income tax benefit related to hedging activities	1,443	—
Other comprehensive income (loss), net of tax	(90,305)	23,665
Comprehensive income (loss)	(5,049)	103,522
Less: comprehensive income attributable to noncontrolling interests	(3,546)	(10,015)
Comprehensive income (loss) attributable to Global Payments	<u>\$ (8,595)</u>	<u>\$ 93,507</u>

	Six Months Ended	
	November 30, 2014	November 30, 2013
Net income	\$ 169,690	\$ 151,565
Other comprehensive income (loss):		
Foreign currency translation adjustments	(117,855)	21,661
Income tax benefit related to foreign currency translation adjustments	7,291	2,253
Unrealized losses on hedging activities	(4,419)	—
Reclassification of losses on hedging activities to interest expense	531	—
Income tax benefit related to hedging activities	1,443	—
Other comprehensive income (loss), net of tax	(113,009)	23,914
Comprehensive income	56,681	175,479
Less: comprehensive income attributable to noncontrolling interests	(7,484)	(19,642)
Comprehensive income attributable to Global Payments	<u>\$ 49,197</u>	<u>\$ 155,837</u>

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	November 30, 2014 (Unaudited)	May 31, 2014
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 644,469	\$ 581,872
Accounts receivable, net of allowances for doubtful accounts of \$469 and \$401, respectively	197,053	214,574
Claims receivable, net	577	809
Settlement processing assets	1,122,321	780,917
Inventory	8,002	6,636
Deferred income taxes	12,761	12,963
Prepaid expenses and other current assets	40,072	45,673
Total current assets	2,025,255	1,643,444
Goodwill	1,483,615	1,337,285
Other intangible assets, net	542,992	535,173
Property and equipment, net	362,809	369,753
Deferred income taxes	95,161	101,928
Other	31,755	31,067
Total assets	\$ 4,541,587	\$ 4,018,650
LIABILITIES AND EQUITY		
Current liabilities:		
Lines of credit	\$ 530,721	\$ 440,128
Current portion of long-term debt	46,875	17,677
Accounts payable and accrued liabilities	303,008	290,106
Settlement processing obligations	781,262	451,317
Income taxes payable	14,267	12,390
Total current liabilities	1,676,133	1,211,618
Long-term debt	1,554,125	1,376,002
Deferred income taxes	200,848	209,099
Other long-term liabilities	88,245	89,132
Total liabilities	3,519,351	2,885,851
Commitments and contingencies		
Equity:		
Preferred stock, no par value; 5,000,000 shares authorized and none issued	—	—
Common stock, no par value; 200,000,000 shares authorized; 67,031,081 issued and outstanding at November 30, 2014 and 68,845,643 issued and outstanding at May 31, 2014	—	—
Paid-in capital	144,419	183,023
Retained earnings	852,972	815,980
Accumulated other comprehensive loss	(102,726)	(1,776)
Total Global Payments shareholders' equity	894,665	997,227
Noncontrolling interests	127,571	135,572
Total equity	1,022,236	1,132,799
Total liabilities and equity	\$ 4,541,587	\$ 4,018,650

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Six Months Ended	
	November 30, 2014	November 30, 2013
Cash flows from operating activities:		
Net income	\$ 169,690	\$ 151,565
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization of property and equipment	33,055	28,439
Amortization of acquired intangibles	36,117	28,953
Share-based compensation expense	9,145	11,965
Provision for operating losses and bad debts	7,432	10,249
Deferred income taxes	(982)	6,073
Other, net	(387)	(4,345)
Changes in operating assets and liabilities, net of the effects of acquisitions:		
Accounts receivable	17,521	(6,353)
Claims receivable	(4,881)	(6,567)
Settlement processing assets and obligations, net	(13,778)	204,307
Inventory	(1,506)	2,237
Prepaid expenses and other assets	5,409	5,761
Accounts payable and other accrued liabilities	(31,503)	(21,845)
Income taxes payable	1,604	1,244
Net cash provided by operating activities	<u>226,936</u>	<u>411,683</u>
Cash flows from investing activities:		
Business, intangible and other asset acquisitions, net of cash acquired	(223,651)	(2,324)
Capital expenditures	(33,290)	(41,178)
Principal collections on financing receivables	219	1,328
Net proceeds from sales of investments and business	10,528	3,102
Net cash used in investing activities	<u>(246,194)</u>	<u>(39,072)</u>
Cash flows from financing activities:		
Net borrowings on short-term lines of credit	90,593	259,047
Proceeds from issuance of long-term debt	1,080,000	810,000
Principal payments under long-term debt	(872,679)	(779,380)
Repurchase of common stock	(179,724)	(250,183)
Proceeds from stock issued under share-based compensation plans	17,099	27,366
Common stock repurchased - share-based compensation plans	(15,705)	(5,260)
Tax benefit from share-based compensation plans	3,599	4,415
Distributions to noncontrolling interests	(15,485)	(15,593)
Dividends paid	(2,693)	(2,894)
Net cash provided by financing activities	<u>105,005</u>	<u>47,518</u>
Effect of exchange rate changes on cash	(23,150)	(3,766)
Increase in cash and cash equivalents	62,597	416,363
Cash and cash equivalents, beginning of the period	581,872	680,470
Cash and cash equivalents, end of the period	<u>\$ 644,469</u>	<u>\$ 1,096,833</u>

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY

(in thousands)

	Number of Shares	Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Global Payments Shareholders' Equity	Noncontrolling Interests	Total Equity
Balance at May 31, 2014	68,846	\$ 183,023	\$ 815,980	\$ (1,776)	\$ 997,227	\$ 135,572	\$ 1,132,799
Net income			150,147		150,147	19,543	169,690
Other comprehensive loss, net of tax				(100,950)	(100,950)	(12,059)	(113,009)
Stock issued under employee stock plans	941	17,099			17,099		17,099
Common stock repurchased - share-based compensation plans	(316)	(6,976)			(6,976)		(6,976)
Tax benefit from employee share-based compensation, net		3,599			3,599		3,599
Share-based compensation expense		9,145			9,145		9,145
Distributions to noncontrolling interests						(15,485)	(15,485)
Repurchase of common stock	(2,440)	(61,471)	(110,462)		(171,933)		(171,933)
Dividends paid (\$0.04 per share)			(2,693)		(2,693)		(2,693)
Balance at November 30, 2014	<u>67,031</u>	<u>\$ 144,419</u>	<u>\$ 852,972</u>	<u>\$ (102,726)</u>	<u>\$ 894,665</u>	<u>\$ 127,571</u>	<u>\$ 1,022,236</u>

See Notes to Unaudited Consolidated Financial Statements.

GLOBAL PAYMENTS INC.
UNAUDITED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY

(in thousands)

	Number of Shares	Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Global Payments Shareholders' Equity	Noncontrolling Interests	Total Equity
Balance at May 31, 2013	75,426	\$ 202,396	\$ 958,751	\$ (15,062)	\$ 1,146,085	\$ 140,522	\$ 1,286,607
Net income			138,540		138,540	13,025	151,565
Other comprehensive income, net of tax				17,297	17,297	6,617	23,914
Stock issued under employee stock plans	1,453	27,366			27,366		27,366
Common stock repurchased - share-based compensation plans	(345)	(5,405)			(5,405)		(5,405)
Tax benefit from employee share-based compensation, net		4,290			4,290		4,290
Share-based compensation expense		11,965			11,965		11,965
Distributions to noncontrolling interests						(15,593)	(15,593)
Repurchase of common stock	(4,625)	(52,331)	(197,800)		(250,131)		(250,131)
Dividends paid (\$0.04 per share)			(2,894)		(2,894)		(2,894)
Balance at November 30, 2013	71,909	\$ 188,281	\$ 896,597	\$ 2,235	\$ 1,087,113	\$ 144,571	\$ 1,231,684

See Notes to Unaudited Consolidated Financial Statements.

NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business consolidation and presentation— Global Payments Inc. is a worldwide provider of payment solutions for merchants, value-added resellers, enterprise software providers, financial institutions, government agencies, multi-national corporations and independent sales organizations ("ISOs") located throughout North America, Brazil, Europe and the Asia-Pacific region. We provide payment and digital commerce solutions and operate in two business segments: North America merchant services and International merchant services.

We were incorporated in Georgia as Global Payments Inc. in September 2000, and we spun-off from our former parent company on January 31, 2001. Including our time as part of our former parent company, we have been in the payments business since 1967. Global Payments Inc. and its consolidated subsidiaries are referred to collectively as "Global Payments," the "Company," "we," "our" or "us," unless the context requires otherwise.

These unaudited consolidated financial statements include our accounts and those of our majority-owned subsidiaries, and all intercompany balances and transactions have been eliminated. These unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") for interim financial information and with Rule 10-01 of Regulation S-X.

In the opinion of our management, all known adjustments necessary for a fair presentation of the results of the interim periods have been made. These adjustments consist of normal recurring accruals and estimates that impact the carrying value of assets and liabilities. We suggest that these financial statements be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the fiscal year ended May 31, 2014.

Use of estimates— The preparation of financial statements in conformity with GAAP requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

Revenue recognition— Our two merchant services segments primarily provide payment solutions for credit cards, debit cards, electronic payments and check-related services. Revenue is recognized as such services are performed. Revenue for services provided directly to merchants is recorded net of interchange fees charged by card issuing banks. Our primary business model provides payment products and services directly to merchants as our end customers. We also provide similar products and services to financial institutions and a limited number of ISOs that, in turn, resell our products and services, in which case, the financial institutions and select ISOs are our end customers. The majority of merchant services revenue is generated on services priced as a percentage of transaction value or a specified fee per transaction, depending on card type. We also charge other fees based on specific services that are unrelated to the number of transactions or the transaction value. Revenue from credit cards and signature debit cards is generally based on a percentage of transaction value along with other related fees, while revenue from PIN-based debit cards is typically based on a fee per transaction.

Cash and cash equivalents— Cash and cash equivalents include cash on hand and all liquid investments with an initial maturity of three months or less when purchased. Cash and cash equivalents include reserve funds collected from our merchants that serve as collateral to minimize contingent liabilities associated with any losses that may occur under the merchant agreement ("Merchant Reserves"). We record a corresponding liability in settlement processing assets and settlement processing obligations in our consolidated balance sheet. While this cash is not restricted in its use, we believe that designating this cash to collateralize Merchant Reserves strengthens our fiduciary standing with banks that sponsor us and is in accordance with guidelines set by the card networks. As of November 30, 2014 and May 31, 2014, our cash and cash equivalents included \$169.6 million and \$124.7 million, respectively, related to Merchant Reserves.

Certain of the banks that sponsor us hold Merchant Reserves on our behalf. In these instances, neither the Merchant Reserve cash nor the corresponding liability appears on our consolidated balance sheet; however, we have access to the collateral in the event that we incur a merchant loss.

[Table of Contents](#)

Our cash and cash equivalents include settlement related cash balances. Settlement related cash balances represent surplus funds that we hold when the incoming amount from the card networks precedes the funding obligation to the merchant. Settlement related cash balances are not restricted; however, these funds are generally paid out in satisfaction of settlement processing obligations the following day. Please see Note 2 - Settlement Processing Assets and Obligations.

Goodwill and other intangible assets— We test goodwill for impairment at the reporting unit level annually as of January 1st and more often if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its net carrying value. Macroeconomic factors such as fluctuations in foreign exchange rates, general economic conditions and other developments in equity and credit markets are monitored for indications that goodwill assigned to one of our reporting units may be impaired. We have the option of performing a qualitative assessment of impairment to determine whether any further quantitative testing for impairment is necessary. The option of whether or not to perform a qualitative assessment is made from year-to-year and can vary by reporting unit.

As of January 1, 2014, we elected to apply the qualitative goodwill impairment assessment guidance in Accounting Standards Codification ("ASC") 350-20, *Goodwill*, for each of our reporting units. Factors we consider in the qualitative assessment include general macroeconomic conditions, industry and market conditions, cost factors, overall financial performance of our reporting units, events or changes affecting the composition or carrying value of the net assets of our reporting units, sustained decrease in our share price, and other relevant entity specific events. If we elect to bypass the qualitative assessment or if we determine, on the basis of qualitative factors, that the fair value of the reporting unit is more likely than not less than the carrying value, a two-step quantitative test is required. In the first step, the reporting unit's carrying amount, including goodwill, is compared to its fair value. If the carrying amount of the reporting unit is greater than its fair value, goodwill is considered impaired and step two must be performed. Step two measures the impairment loss by comparing the implied fair value of reporting unit goodwill with the carrying amount of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit to all the assets and liabilities of that unit (including unrecognized intangibles) as if the reporting unit had been acquired in a business combination. The excess of the fair value over the amounts allocated to the assets and liabilities of the reporting unit is the implied fair value of the goodwill. The excess of the carrying amount over the implied fair value of the goodwill is the impairment loss.

We have six reporting units: North America merchant services, U.K. merchant services, Asia-Pacific merchant services, Central and Eastern Europe merchant services, Russia merchant services and Spain merchant services. Based on our annual assessment as of January 1, 2014, we determined on the basis of qualitative factors, that the fair values of the reporting units were not more likely than not less than their respective carrying values; and therefore, a two-step quantitative test was not required. We believe that the fair values of our reporting units are substantially in excess of their carrying values.

As of November 30, 2014, we had \$25.2 million of goodwill assigned to the Russia merchant services reporting unit. We have considered the deterioration of economic conditions in the Russian Federation and the recent devaluation of the Russian Ruble compared to the United States Dollar and have concluded that an interim impairment test was not required at November 30, 2014. We will continue to monitor conditions in the Russian Federation and will factor them into our next annual assessment which will be performed as of January 1, 2015.

Our goodwill impairment testing involves the use of estimates and the exercise of judgment on the part of management. Our assessment of the qualitative factors discussed above involves significant judgments about expected future business performance and general market conditions. Significant changes in our assessment of such qualitative factors could affect our assessment of the fair value of one or more of our reporting units and could result in a goodwill impairment charge in a future period.

Other intangible assets primarily represent customer-related intangible assets (such as customer lists and merchant contracts), contract-based intangible assets (such as non-compete agreements, referral agreements and processing rights), acquired technology and trademarks associated with acquisitions. Customer-related intangible assets, contract-based intangible assets and trademarks are amortized over their estimated useful lives from 5 to 30 years. The useful lives for customer-related intangible assets are determined based primarily on forecasted cash flows, which include estimates for the revenues, expenses, and customer attrition associated with the assets. The useful lives of contract-based intangible assets are equal to the terms of the agreements. The useful lives of amortizable trademarks and trade names are based on our plans to phase out the trademarks and trade names in the applicable markets. Acquired technology is amortized on a straight-line basis over its estimated useful life.

Amortization for most of our customer-related intangible assets is calculated using an accelerated method. In determining amortization expense under our accelerated method for any given period, we calculate the expected cash flows for that period that

[Table of Contents](#)

were used in determining the acquired value of the asset and divide that amount by the expected total cash flows over the estimated life of the asset. We multiply that percentage by the initial carrying value of the asset to arrive at the amortization expense for that period. If the cash flow patterns that we experience differ significantly from our initial estimates, we will adjust the amortization schedule accordingly. These cash flow patterns are derived using certain assumptions and cost allocations due to a significant amount of asset interdependencies that exist in our business.

We believe that our accelerated method better approximates the distribution of cash flows generated by our acquired customer relationships. We use the straight-line method of amortization for our contract-based intangibles and amortizable trademarks and trade names.

Impairment of long-lived assets— We regularly evaluate whether events and circumstances have occurred that indicate the carrying amount of property and equipment and finite-life intangible assets may not be recoverable. When factors indicate that these long-lived assets should be evaluated for possible impairment, we assess the potential impairment by determining whether the carrying value of such long-lived assets will be recovered through the future undiscounted cash flows expected from use of the asset and its eventual disposition. If the carrying amount of the asset is determined not to be recoverable, a write-down to fair value is recorded. Fair values are determined based on quoted market prices or discounted cash flow analysis as applicable. We regularly evaluate whether events and circumstances have occurred that indicate the useful lives of property and equipment and finite-life intangible assets may warrant revision. In our opinion, the carrying values of our long-lived assets, including property and equipment and finite-life intangible assets, were not impaired at November 30, 2014 and May 31, 2014.

Derivative Instruments— Our long-term debt bears interest, at our election, at either the London Interbank Offered Rate ("LIBOR") or a base rate, in each case plus a leverage-based margin. Consequently, we are exposed to variability in our interest payment cash flows due to changes in interest rates. We use interest rate swaps to manage a portion of this exposure. These financial instruments are recognized at fair value on the consolidated balance sheets, and changes in fair value are recognized in shareholders' equity through accumulated other comprehensive income (loss) ("AOCI"). Our objective in managing our exposure to fluctuation in interest rates is to better control this element of cost and to mitigate the earnings and cash flow volatility associated with changes in applicable rates.

We have established policies and procedures that encompass risk-management philosophy and objectives, guidelines for derivative instrument usage, counterparty credit approval, and the monitoring and reporting of derivative activity. We do not enter into derivative instruments for the purpose of speculation. We formally designate and document instruments at inception that qualify for hedge accounting of underlying exposures in accordance with GAAP.

We formally assess, both at inception and at least quarterly, whether the financial instruments used in hedging transactions are effective at offsetting changes in cash flows of the related underlying exposure. Fluctuations in the value of these instruments generally are offset by changes in the cash flows of the underlying exposures being hedged. This offset is driven by the high degree of effectiveness between the exposure being hedged and the hedging instrument. GAAP requires all derivative instruments to be recognized as either assets or liabilities at fair value in the consolidated balance sheets. We designated our interest rate swap agreement as a cash flow hedge of interest payments on variable rate borrowings. Any ineffective portion of a change in the fair value of a qualifying instrument is immediately recognized in earnings. Please see Note 5-Long-Term Debt and Credit Facilities for more information about our interest rate swaps.

Earnings per share— Basic earnings per share is computed by dividing reported earnings available to common shareholders by the weighted average shares outstanding during the period. Earnings available to common shareholders is the same as reported net income attributable to Global Payments for all periods presented.

Diluted earnings per share is computed by dividing reported earnings available to common shareholders by the weighted average shares outstanding during the period and the impact of securities that would have a dilutive effect on earnings per share. All options with an exercise price less than the average market share price for the period are assumed to have a dilutive effect on earnings per share. There were no such antidilutive stock options for both the three and six months ended November 30, 2014 and November 30, 2013. No additional securities were outstanding that could potentially dilute basic earnings per share.

[Table of Contents](#)

The following table sets forth the computation of diluted weighted average shares outstanding for the three and six months ended November 30, 2014 and November 30, 2013:

	Three Months Ended		Six Months Ended	
	November 30, 2014	November 30, 2013	November 30, 2014	November 30, 2013
	(in thousands)		(in thousands)	
Basic weighted average shares outstanding	67,377	72,174	67,764	72,974
Plus: Dilutive effect of stock options and other share-based awards	360	532	415	530
Diluted weighted average shares outstanding	<u>67,737</u>	<u>72,706</u>	<u>68,179</u>	<u>73,504</u>

Repurchased shares— We account for the retirement of repurchased shares using the par value method under which we allocate the cost of repurchased and retired shares between paid-in capital and retained earnings by comparing the price of shares repurchased to the original issue proceeds of those shares. When the repurchase price of the shares repurchased is greater than the original issue proceeds, the excess is charged to retained earnings. We use a last-in, first-out cost flow assumption to identify the original issue proceeds to the cost of the shares repurchased. We believe that this allocation method is preferable because it more accurately reflects our paid-in capital balances by allocating the cost of the shares repurchased and retired to paid-in capital in proportion to paid-in capital associated with the original issuance of said shares.

New accounting pronouncements— From time-to-time, new accounting pronouncements are issued by the Financial Accounting Standards Board ("FASB") or other standards setting bodies that are adopted by us as of the specified effective date. Unless otherwise discussed, our management believes that the impact of recently issued standards that are not yet effective will not have a material impact on our consolidated financial statements upon adoption.

In May 2014, the FASB issued Accounting Standards Update ("ASU") 2014-09, "Revenue from Contracts with Customers (Topic 606)." The core principle of ASU 2014-09 is that an entity should recognize revenue for the transfer of goods or services equal to the amount that it expects to be entitled to receive for those goods or services. ASU 2014-09 requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in judgments. The amendments are effective for annual reporting periods beginning after December 15, 2016, including interim periods within that reporting period. Early application is not permitted. We are evaluating the impact of ASU 2014-09 on our consolidated financial statements.

In April 2014, the FASB issued ASU 2014-08, "Presentation of Financial Statements (Topic 205) and Property, Plant, and Equipment (Topic 360) Reporting Discontinued Operations and Disclosures of Disposals of Components of an Entity." The amendments in ASU 2014-08 change the requirements for reporting discontinued operations in ASC 205-20. The amendments change the definition of discontinued operations by limiting discontinued operations reporting to disposals of components of an entity that represent strategic shifts that have (or will have) a major effect on an entity's operations and financial results. The amendments require expanded disclosures for discontinued operations and are effective for fiscal years, and interim periods within those years, beginning after December 15, 2014. Early adoption is permitted, but only for disposals (or classifications as "held for sale") that have not been reported in financial statements previously issued or available for issuance. As permitted by the standard, we elected to early adopt the provisions of ASU 2014-08 as of June 1, 2014 and are applying the provisions prospectively. Adoption of ASU 2014-08 did not have a material impact on our consolidated financial statements.

NOTE 2—SETTLEMENT PROCESSING ASSETS AND OBLIGATIONS

Funds settlement refers to the process of transferring funds for sales and credits between card issuers and merchants. For transactions processed on our systems, we use our internal network to provide funding instructions to financial institutions that in turn fund the merchants. We process funds settlement under two models, a sponsorship model and a direct membership model.

Under the sponsorship model, we are designated as a Merchant Service Provider by MasterCard and an ISO by Visa, which means that member clearing banks ("Member") sponsor us and require our adherence to the standards of the networks. In certain markets, we have sponsorship or depository and clearing agreements with financial institution sponsors. These agreements allow us to route transactions under the Members' control and identification numbers to clear credit card transactions through MasterCard

[Table of Contents](#)

and Visa. In this model, the standards of the card networks restrict us from performing funds settlement or accessing merchant settlement funds, and, instead, require that these funds be in the possession of the Member until the merchant is funded.

Under the direct membership model, we are members in various payment networks, allowing us to process and fund transactions without third-party sponsorship. In this model, we route and clear transactions directly through the card brand's network and are not restricted from performing funds settlement. Otherwise, we process these transactions similarly to how we process transactions in the sponsorship model. We are required to adhere to the standards of the various networks in which we are direct members. We maintain relationships with financial institutions, which may also serve as our Member sponsors for other card brands or in other markets, to assist with funds settlement.

Timing differences, interchange expense, Merchant Reserves and exception items cause differences between the amount received from the card networks and the amount funded to the merchants. These intermediary balances arising in our settlement process for direct merchants are reflected as settlement processing assets and obligations on our balance sheet. Settlement processing assets and obligations include the components outlined below:

- Interchange reimbursement - our receivable from merchants for the portion of the discount fee related to reimbursement of the interchange expense.
- Receivable from Members - our receivable from the Members for transactions in which merchants have been funded in advance of receipt of card association funding.
- Receivable from networks - our receivable from the card networks for transactions processed on behalf of merchants where we are a direct member of that particular network.
- Exception items - items such as customer chargeback amounts received from merchants.
- Merchant Reserves - reserves held to minimize contingent liabilities associated with losses that may occur under the merchant agreement.
- Liability to Members - our liability to the Members for transactions for which funding from the network has been received by the Members but merchants have not yet been funded.
- Liability to merchants - our liability to merchants for transactions that have been processed but not yet funded where we are a direct member of that particular network.
- Reserve for operating losses - our allowance for charges or losses that we are not able to collect from the merchants due to merchant fraud, insolvency, bankruptcy or any other merchant-related reason.

In accordance with ASC 210-20, Offsetting, we apply offsetting to our settlement processing assets and obligations where legal right of set-off exists. In the sponsorship model, we apply offsetting by Member because the Member is ultimately responsible for funds settlement. With these Member transactions, we do not have access to the gross proceeds of the receivable from the networks and, thus, do not have a direct obligation or any ability to satisfy the payable that funds the merchant. In these situations, we apply offsetting to determine a net position with each Member sponsor. If that net position is an asset, we reflect the net amount in settlement processing assets on our balance sheet and we present the individual components in the settlement processing assets table below. If that net position is a liability, we reflect the net amount in settlement processing obligations on our consolidated balance sheet and we present the individual components in the settlement processing obligations table below. In the direct membership model, offsetting is not applied, and the individual components are presented as an asset or obligation based on the nature of that component.

	November 30, 2014	May 31, 2014
	(in thousands)	
Settlement processing assets:		
Interchange reimbursement	\$ 55,821	\$ 217,806
Receivable from Members	391,047	206,322
Receivable from networks	717,772	430,763
Exception items	2,995	5,573
Merchant Reserves	(45,314)	(79,547)
	<u>\$ 1,122,321</u>	<u>\$ 780,917</u>
Settlement processing obligations:		
Interchange reimbursement	\$ 178,819	\$ 54,459
Liability to Members	(157,205)	(5,490)
Liability to merchants	(680,822)	(407,651)
Exception items	4,176	6,313
Merchant Reserves	(124,251)	(96,622)
Reserve for operating losses	(1,387)	(1,725)
Reserves for sales allowances	(592)	(601)
	<u>\$ (781,262)</u>	<u>\$ (451,317)</u>

NOTE 3—BUSINESS AND INTANGIBLE ASSET ACQUISITIONS AND JOINT VENTURES

Fiscal 2015

Ezidebit

On October 10, 2014, we completed the acquisition of 100% of the outstanding stock of Ezi Holdings Pty Ltd ("Ezidebit") for AU\$305.0 million less working capital of AU\$2.6 million (US\$268.1 million less working capital of US\$2.2 million), subject to adjustment based on a final determination of working capital. This acquisition was funded by a combination of cash on hand and borrowings on our revolving credit facility. Ezidebit is a leading integrated payments company focused on recurring payments verticals in Australia and New Zealand. Ezidebit markets its products through a network of integrated software vendors and direct channels to numerous vertical markets. We acquired Ezidebit to establish a direct distribution channel in Australia and New Zealand and to further enhance our existing integrated solutions offerings. This acquisition was recorded as a business combination, and the purchase price was allocated to the assets acquired and liabilities assumed based on their estimated fair values. Due to the timing of this transaction, the allocation of the purchase price is preliminary pending final valuation of intangible assets and final determination of working capital discussed above. Acquisition costs associated with this purchase were not material. The revenue and earnings of Ezidebit for the three and six months ended November 30, 2014 are not material nor are the historical revenue and earnings of Ezidebit material for the purpose of presenting pro forma information for the current or prior-year periods.

[Table of Contents](#)

The following table summarizes the preliminary purchase price allocation (in thousands):

Cash	\$ 45,826
Goodwill	205,590
Customer-related intangible assets	32,876
Trade name	2,901
Acquired technology	26,195
Other assets	2,486
Total assets acquired	315,874
Liabilities	(49,919)
Deferred income taxes	(96)
Net assets acquired	\$ 265,859

The preliminary purchase price allocation resulted in goodwill, included in the International merchant services segment, of \$205.6 million. The goodwill is attributable to expected growth opportunities in Australia and New Zealand, as well as growth opportunities and operating synergies in integrated payments in our existing Asia-Pacific and North America markets. The goodwill associated with this acquisition is not deductible for tax purposes. The customer-related intangible assets and the contract-based intangible assets have estimated amortization periods of 15 years. The acquired technology has an estimated amortization period of 8 years. The trade name intangible assets have an estimated amortization period of 5 years.

Fidelity National Information Services Gaming Business

On September 30, 2014, we entered into an asset purchase agreement with Certegy Check Services, Inc., a Delaware corporation and wholly-owned subsidiary of Fidelity National Information Services, Inc. (NYSE:FIS) ("FIS"), to acquire its gaming business related to licensed gaming operators (the "FIS Gaming Business"). Pursuant to the terms of the asset purchase agreement, we will acquire substantially all of the assets of the FIS Gaming Business, which includes approximately 260 gaming client locations and certain tangible assets, for \$236.5 million, subject to certain adjustments at closing. We expect the acquisition to close during the fourth quarter of fiscal 2015, subject to the satisfaction of closing conditions, and to be funded from operating cash flows.

At the same time, we entered into a gaming bureau license agreement and an outsourcing agreement with FIS. Under the license agreement, we acquired a perpetual software license for a gaming bureau application that we believe enhances our casino clients' credit decision process. The software license is reflected in property and equipment in our consolidated balance sheet. Under the outsourcing agreement, which has a term of 10 years, we have engaged FIS to provide a variety of services for our gaming clients, including: check and ACH verification services, collection services, claims management services, billing services and other gaming bureau services. The outsourcing agreement will become effective when the asset purchase agreement closes.

Fiscal 2014

Comercia Global Payments Brazil

Effective September 30, 2013, CaixaBank, S.A. ("CaixaBank"), which owns 49% of Comercia Global Payments ("Comercia"), our subsidiary in Spain, purchased 50% of Global Payments Brazil for \$2.1 million in cash and a commitment to fund the capital needs of the business until such time as its cumulative funding is equal to funding that we provided from inception through the effective date of the transaction. The transaction created a new joint venture which does business as Comercia Global Payments Brazil. As a result of the transaction, we deconsolidated Global Payments Brazil, and we apply the equity method of accounting to our retained interest in Comercia Global Payments Brazil. We recorded a gain on the transaction of \$2.1 million which is included in interest and other income in the consolidated statement of income for the fiscal year ended May 31, 2014. The results of the Brazil operation from inception until the restructuring into a joint venture on September 30, 2013 were not material to our consolidated results of operations, and the assets and liabilities that we derecognized were not material to our consolidated balance sheet.

In late fiscal 2014, CaixaBank completed its initial funding commitment. During the three months ended August 31, 2014, CaixaBank and Global Payments each made an additional investment of \$3.9 million in Comercia Global Payments Brazil to fund the ongoing operations of the business.

[Table of Contents](#)

PayPros

On March 4, 2014, we completed the acquisition of 100% of the outstanding stock of Payment Processing, Inc. ("PayPros") for \$420.0 million in cash plus \$6.5 million in cash for working capital. We funded the acquisition with a combination of cash on hand and proceeds from our Term Loan (as defined in Note 5). PayPros, based in California, is a provider of fully-integrated payment solutions for small-to-medium sized merchants in the United States. PayPros delivers its products and services through a network of technology-based enterprise software partners to vertical markets that are complementary to the markets served by Accelerated Payment Technologies, which we acquired in October 2012. We acquired PayPros to expand our direct distribution capabilities in the United States and to further enhance our existing integrated solutions offerings. This acquisition was recorded as a business combination, and the purchase price was allocated to the assets acquired and liabilities assumed based on their estimated fair values. The purchase price of PayPros was determined by analyzing the historical and prospective financial statements. Acquisition costs associated with this purchase were not material.

The following table summarizes the purchase price allocation (in thousands):

Goodwill	\$ 270,878
Customer-related intangible assets	147,500
Contract-based intangible assets	30,200
Acquired technology	10,800
Property and equipment	1,680
Other assets	3,872
Total assets acquired	464,930
Deferred income taxes	(38,478)
Net assets acquired	<u>\$ 426,452</u>

The purchase price allocation resulted in goodwill, included in the North America merchant services segment, of \$270.9 million. Such goodwill is attributable primarily to synergies with the services offered and markets served by PayPros. The goodwill associated with the acquisition is not deductible for tax purposes. The customer-related intangible assets and the contract-based intangible assets have estimated amortization periods of 13 years. The acquired technology has an estimated amortization period of 7 years.

The following pro forma information shows the results of our operations for the three and six months ended November 30, 2013 as if the PayPros acquisition had occurred on June 1, 2013. The pro forma information is presented for information purposes only and is not necessarily indicative of what would have occurred if the acquisition had been made as of that date. The pro forma information is also not intended to be a projection of future results due to the integration of the acquired business.

	Unaudited			
	Three Months Ended		Six Months Ended	
	November 30, 2013	November 30, 2013	November 30, 2013	November 30, 2013
	(Actual)	(Pro forma)	(Actual)	(Pro forma)
	(in thousands, except per share data)		(in thousands, except per share data)	
Total revenues	\$ 634,122	\$ 658,735	\$ 1,263,807	\$ 1,311,484
Net income attributable to Global Payments	\$ 73,897	\$ 72,187	\$ 138,540	\$ 134,764
Net income per share attributable to Global Payments, basic	\$ 1.02	\$ 1.00	\$ 1.90	\$ 1.85
Net income per share attributable to Global Payments, diluted	\$ 1.02	\$ 0.99	\$ 1.88	\$ 1.83

NOTE 4—GOODWILL AND INTANGIBLE ASSETS

As of November 30, 2014 and May 31, 2014, goodwill and intangible assets consisted of the following:

	November 30, 2014	May 31, 2014
	(in thousands)	
Goodwill	\$ 1,483,615	\$ 1,337,285
Other intangible assets:		
Customer-related intangible assets	\$ 720,562	\$ 714,704
Trademarks and trade names	7,670	6,140
Acquired technology	51,037	25,700
Contract-based intangible assets	138,377	145,967
	<u>917,646</u>	<u>892,511</u>
Less accumulated amortization:		
Customer-related intangible assets	329,710	317,629
Trademarks and trade names	4,054	4,147
Acquired technology	5,821	3,531
Contract-based intangible assets	35,069	32,031
	<u>374,654</u>	<u>357,338</u>
	<u>\$ 542,992</u>	<u>\$ 535,173</u>

The following table sets forth the changes in the carrying amount of goodwill for the six months ended November 30, 2014:

	North America Merchant Services	International Merchant Services	Total
	(in thousands)		
Balance at May 31, 2014	\$ 786,655	\$ 550,630	\$ 1,337,285
Accumulated impairment losses	—	—	—
	<u>786,655</u>	<u>550,630</u>	<u>1,337,285</u>
Goodwill acquired	—	205,590	205,590
Adjustment ⁽¹⁾	(699)	—	(699)
Effect of foreign currency translation	(4,549)	(54,012)	(58,561)
Balance at November 30, 2014	<u>\$ 781,407</u>	<u>\$ 702,208</u>	<u>\$ 1,483,615</u>

⁽¹⁾During the six months ended November 30, 2014, we recorded an adjustment to decrease goodwill by \$0.7 million in connection with the finalization of the intangible asset and deferred tax valuations associated with the purchase price allocation and the working capital settlement for the PayPros acquisition.

NOTE 5—LONG-TERM DEBT AND CREDIT FACILITIES

As of November 30, 2014 and May 31, 2014, outstanding debt consisted of the following:

	November 30, 2014	May 31, 2014
	(in thousands)	
Lines of credit:		
Corporate Credit Facility - long-term	\$ 351,000	\$ 140,000
Short-term lines of credit	530,721	440,128
Total lines of credit	881,721	580,128
Notes payable	—	3,679
Term loan	1,250,000	1,250,000
Total debt	<u>\$ 2,131,721</u>	<u>\$ 1,833,807</u>
Current portion	\$ 577,596	\$ 457,805
Long-term debt	1,554,125	1,376,002
Total debt	<u>\$ 2,131,721</u>	<u>\$ 1,833,807</u>

On February 28, 2014, we entered into an amended and restated term loan agreement ("Term Loan") and an amended and restated credit agreement ("Corporate Credit Facility") with a syndicate of financial institutions.

The Term Loan is a five-year senior unsecured \$1.25 billion term loan. We used proceeds from the Term Loan to partially fund our acquisition of PayPros on March 4, 2014 and to repay the outstanding balances on our previously existing revolving credit facility and our previously existing term loan.

The Term Loan expires February 28, 2019 and bears interest, at our election, at either LIBOR or a base rate, in each case plus a leverage-based margin. As of November 30, 2014, the interest rate on the Term Loan was 1.90%. Commencing in May 2015 and ending in November 2018, the Term Loan has scheduled quarterly principal payments of 1.25%, increasing up to 2.50% of the original principal balance. At maturity, 27.5% of the Term Loan will have been repaid through scheduled amortization and the remaining principal balance will be due. With notice, the Term Loan may be voluntarily prepaid at any time, in whole or in part, without penalty.

The Corporate Credit Facility is a five-year senior unsecured \$1.0 billion revolving credit facility that expires February 28, 2019 and bears interest, at our election, at either LIBOR or a base rate, in each case plus a leverage-based margin. Borrowing under the Corporate Credit Facility is available in various currencies. As of November 30, 2014, the outstanding balance on the Corporate Credit Facility was \$351.0 million, and the interest rate was 1.88%. The Corporate Credit Facility is available for general corporate purposes.

The Corporate Credit Facility allows us to issue standby letters of credit of up to \$100.0 million in the aggregate. Outstanding letters of credit under the Corporate Credit Facility reduce the amount of borrowings available to us. At November 30, 2014 and May 31, 2014, we had standby letters of credit of \$8.0 million and \$8.1 million, respectively. The total available incremental borrowings under our Corporate Credit Facility at November 30, 2014 and May 31, 2014 was \$641.0 million and \$851.9 million, respectively.

The agreements contain customary affirmative and restrictive covenants, including, among others, financial covenants based on our leverage and fixed charge coverage ratios. Please see "Compliance with Covenants" below. Each of the agreements includes customary events of default, the occurrence of which, following any applicable cure period, would permit lenders to, among other things, declare the principal, accrued interest and other obligations to be immediately due and payable.

Short-term Lines of Credit

We have short-term lines of credit with banks in the United States and Canada as well as several countries in Europe and the Asia-Pacific region in which we do business. The short-term lines of credit, which are primarily used to fund settlement, generally have variable short-term interest rates and are subject to annual review. The credit facilities are generally denominated in local currency but may, in some cases, facilitate borrowings in multiple currencies. For certain of our lines of credit, the line of credit balance is reduced by the amount of cash we have on deposit in specific accounts with the lender when determining compliance with the credit limit. Accordingly, the line of credit balance may exceed the stated credit limit at any given point in time, when in fact the combined position is less than the credit limit. As of November 30, 2014 and May 31, 2014, we had \$852.4 million and \$440.1 million, respectively, of additional borrowing capacity under our short-term lines of credit to fund settlement.

Compliance with Covenants

There are certain financial and non-financial covenants contained in our various credit facilities and Term Loan. Our Term Loan and Corporate Credit Facility include financial covenants requiring (i) a leverage ratio no greater than 3.50 to 1.00 (3.75 to 1.00 in the case of a business acquisition, subject to certain conditions) and (ii) a fixed charge coverage ratio no less than 2.50 to 1.00. We complied with all applicable covenants as of and for the three and six months ended November 30, 2014 and as of May 31, 2014.

Interest Rate Swap Agreement

On October 9, 2014, we entered into an interest rate swap agreement with a major financial institution to hedge changes in cash flows attributable to interest rate risk on a portion of our variable-rate debt instruments. The interest rate swap agreement, which became effective on November 1, 2014, will mature on February 28, 2019. The fair value of our interest rate swap as of November 30, 2014 was \$3.9 million and is reflected in accounts payable and accrued liabilities in our consolidated balance sheet. Net amounts to be received or paid under the swap agreement are reflected as adjustments to interest expense. Since the interest rate swap agreement has been designated as a cash flow hedge, unrealized gains or losses resulting from adjusting this swap to fair value are recorded as elements of AOCI within the consolidated balance sheets except for any ineffective portion of the change in fair value, which is immediately recorded in interest expense. During the three and six months ended November 30, 2014, there was no ineffectiveness. The fair value of the swap agreement is determined based on the present value of the estimated future net cash flows using implied rates in the applicable yield curve as of the valuation date. This derivative instrument is classified within Level 2 of the valuation hierarchy.

At November 30, 2014, our interest rate swap agreement effectively converted \$500.0 million of our variable-rate debt to a fixed rate of 1.52% plus a leverage-based margin. During the three and six months ended November 30, 2014, we recognized \$0.5 million in interest expense related to settlements on the interest rate swap. The amount in AOCI at November 30, 2014 related to our interest rate swap that is expected to be reclassified into interest expense during the next 12 months is not material.

NOTE 6—INCOME TAX

Our effective tax rates were 25.8% and 26.9% for the three months ended November 30, 2014 and November 30, 2013, respectively. Our effective tax rates were 26.1% and 28.5% for the six months ended November 30, 2014 and November 30, 2013, respectively. The effective tax rate for the six months ended November 30, 2013 reflects additional income tax expense we recorded as a result of the reduction of certain U.K. deferred tax assets due to enacted corporate tax rate reductions in the United Kingdom of 3%. Our effective tax rate differs from the U.S. statutory rate due to domestic and international tax planning initiatives and income generated in international jurisdictions with lower tax rates.

As of November 30, 2014 and May 31, 2014, other long-term liabilities included liabilities for unrecognized income tax benefits of \$66.6 million and \$67.6 million, respectively. During the six months ended November 30, 2014 and November 30, 2013, amounts recorded for accrued interest and penalty expense related to the unrecognized income tax benefits were insignificant.

[Table of Contents](#)

We conduct business globally and file income tax returns in the U.S. federal jurisdiction and various state and foreign jurisdictions. In the normal course of business, we are subject to examination by taxing authorities around the world, including, without limitation, the United States, the United Kingdom and Canada. We are no longer subject to state income tax examinations for years ended on or before May 31, 2006 and are no longer subject to U.S. federal income tax examinations by the U.S. Internal Revenue Service for fiscal years prior to 2012.

NOTE 7—SHAREHOLDERS' EQUITY

During the three and six months ended November 30, 2014, we repurchased and retired 0.7 million and 2.4 million shares of our common stock at a cost of \$47.4 million and \$171.9 million, or an average of \$72.22 and \$70.46 per share, including commissions, respectively. During the three and six months ended November 30, 2013, we repurchased and retired 1.6 million and 4.6 million shares of our common stock at a cost of \$85.7 million and \$230.1 million, or an average of \$54.48 and \$49.76 per share, including commissions, respectively. As of November 30, 2014, we had \$197.7 million of remaining authorized share repurchases.

On October 7, 2013, we entered into an accelerated share repurchase program ("ASR") with Goldman, Sachs & Co. to repurchase an aggregate of \$100.0 million of our common stock. In exchange for an upfront payment of \$100.0 million, Goldman, Sachs & Co. committed to deliver a number of shares during the ASR's purchase period, which ended on January 9, 2014. The total number of shares delivered under this ASR was 1.6 million shares at an average price of \$60.96 per share. These shares were retired and accounted for as a reduction of shareholders' equity in the consolidated balance sheet.

NOTE 8—SHARE-BASED AWARDS AND OPTIONS

As of November 30, 2014, we had awards outstanding under four share-based employee compensation plans. The fair value of share-based awards is amortized as compensation expense on a straight-line basis over the vesting period.

Non-qualified stock options and restricted stock have been granted to officers, key employees and directors under the Global Payments Inc. 2000 Long-Term Incentive Plan, as amended and restated (the "2000 Plan"), the Global Payments Inc. Amended and Restated 2005 Incentive Plan (the "2005 Plan"), the Amended and Restated 2000 Non-Employee Director Stock Option Plan (the "Director Stock Option Plan"), and the Global Payments Inc. 2011 Incentive Plan (the "2011 Plan") (collectively, the "Plans"). There were no further grants made under the 2000 Plan after the 2005 Plan was effective, and the Director Stock Option Plan expired by its terms on February 1, 2011. There will be no future grants under the 2000 Plan, the 2005 Plan or the Director Stock Option Plan.

The 2011 Plan permits grants of equity to employees, officers, directors and consultants. A total of 7.0 million shares of our common stock was reserved and made available for issuance pursuant to awards granted under the 2011 Plan.

The following table summarizes the share-based compensation cost charged to income and the related total income tax benefit recognized for stock options, restricted stock awards, performance units, TSR units (each as described below), and shares issued under our employee stock purchase plan.

	Three Months Ended		Six Months Ended	
	November 30, 2014	November 30, 2013	November 30, 2014	November 30, 2013
	(in millions)		(in millions)	
Share-based compensation expense	\$ 5.0	\$ 7.2	\$ 9.1	\$ 12.0
Income tax benefit	\$ 1.7	\$ 2.0	\$ 2.8	\$ 3.3

We award shares and performance units pursuant to the Plans under what we refer to as our "long-term incentive plan." The awards are held in escrow and released to the grantee upon the grantee's satisfaction of conditions of the grantee's award certificate.

Restricted Stock

The grant date fair value of restricted stock awards is based on the quoted market value of our common stock at the award date. Grants of restricted stock awards are subject to forfeiture if a grantee leaves our employment prior to expiration of the restricted

[Table of Contents](#)

period. Restricted stock awards that were granted before fiscal 2015 vest in equal installments on each of the first four anniversaries of the grant date. Restricted stock awards that were granted during fiscal 2015 will either vest in equal installments on each of the first three anniversaries of the grant date or cliff vest at the end of a three-year service period.

Performance Units

Certain of our executives have been granted up to three types of "performance units" under our long-term incentive plan. "Performance units" are performance-based restricted stock units that, after a performance period, convert into a number of shares, which may or may not be restricted, depending upon the achievement of certain performance measures during the fiscal year. The target number of performance units and the market-based performance measures ("at threshold," "target," and "maximum") are set by the Compensation Committee of our Board of Directors. Performance units are converted to restricted stock grants only after the Compensation Committee certifies our performance based on its pre-established goals.

The performance units granted to certain executives in fiscal 2014 were based on a one-year performance period. After the Compensation Committee certified the performance results, these performance units converted into restricted shares, 25% of which vested after the certification date of performance results. The remaining 75% will vest in equal installments on each of the next three anniversaries of the conversion date. As of November 30, 2014, all performance units granted in fiscal 2014 had converted into restricted shares.

The performance units granted to certain executives during fiscal 2015 were based on a three-year performance period. After the Compensation Committee certifies the performance results, these performance units will convert into fully-vested shares of common stock. The Compensation Committee may set a range of possible performance-based outcomes for the award. Depending on the achievement of the performance measures, the grantee may earn as little as 0% and up to a maximum of 200% of the target number of shares. We recognize compensation expense over the performance period based on the fair value of the award at the grant date based on the number of shares expected to be earned according to the level of achievement of performance goals. If our expectations were to change at any time during the performance period, we would make a cumulative adjustment to compensation expense based on the revised number of shares expected to be earned.

During fiscal 2015, certain executives were granted performance units that we refer to as "leveraged performance units," or "LPU," with a market condition based on our relative stock price growth over a three-year performance period. The awards contain a minimum threshold performance, which if not met would result in no payout. The awards also contain a maximum award opportunity as a fixed dollar and fixed number of shares and a relative modifier which compares our stock price growth to the growth in the S&P 500 Index over the performance period. After the three-year performance period, one-third of any earned units convert to unrestricted stock. The remaining two-thirds will convert to restricted stock awards that will vest in equal installments on each of the first two anniversaries of the conversion date. We recognize compensation expense based on the grant date fair value of the LPUs, as determined by use of a Monte Carlo model, on a straight-line basis over the requisite service period for each separately vesting portion of the award.

Total Shareholder Return ("TSR") Units

Certain of our executives have been granted "TSR units," which are performance-based restricted stock units that are earned based on our total shareholder return over a three-year performance period compared to companies in the S&P 500. Once the performance results are certified, TSR units convert into fully-vested shares of our common stock. Depending on our performance, the grantee may earn as little as 0% and up to a maximum of 200% of the target number of shares. The target number of TSR units for each executive is set by the Compensation Committee of our Board of Directors and a Monte Carlo simulation is used to calculate the estimated share payout.

[Table of Contents](#)

The following table summarizes the changes in unvested share-based awards for the six months ended November 30, 2014:

	Shares	Weighted Average Grant-Date Fair Value
	(in thousands)	
Unvested at May 31, 2014	877	\$ 45
Granted	454	72
Vested	(316)	46
Forfeited	(78)	53
Unvested at November 30, 2014	937	\$ 57

Including the restricted stock, performance units and TSR units described above, the total fair value of share-based awards vested during the six months ended November 30, 2014 and November 30, 2013 was \$14.6 million and \$15.9 million, respectively.

We recognized compensation expense for share-based awards of \$4.7 million and \$6.8 million in the three months ended November 30, 2014 and November 30, 2013, respectively. We recognized compensation expense for share-based awards of \$8.5 million and \$11.1 million in the six months ended November 30, 2014 and November 30, 2013, respectively. As of November 30, 2014, there was \$51.2 million of total unrecognized compensation cost related to unvested share-based awards that is expected to be recognized over a weighted average period of 2.5 years.

Employee Stock Purchase Plan

We have an employee stock purchase plan under which the sale of 2.4 million shares of our common stock has been authorized. Employees may designate up to the lesser of \$25,000 or 20% of their annual compensation for the purchase of our common stock. The price for shares purchased under the plan is 85% of the market value on the last day of each calendar quarter. As of November 30, 2014, 1.1 million shares had been issued under this plan, with 1.3 million shares reserved for future issuance. We recognized compensation expense for the plan of \$0.1 million in both the three months ended November 30, 2014 and November 30, 2013. We recognized compensation expense for the plan of \$0.3 million and \$0.2 million in the six months ended November 30, 2014 and November 30, 2013, respectively.

The weighted average grant-date fair value of each designated share purchased under this plan during the six months ended November 30, 2014 and November 30, 2013 was approximately \$8 and \$7, respectively, which represents the fair value of the 15% discount.

Stock Options

Stock options are granted at 100% of fair market value on the date of grant and have a term of ten years. Stock options that were granted before fiscal 2015 vest in equal installments on each of the first four anniversaries of the grant date. Stock options granted during fiscal 2015 vest in equal installments on each of the first three anniversaries of the grant date. During the six months ended November 30, 2014, we granted 0.2 million stock options. We granted no stock options during the three months ended November 30, 2014 and the three and six months ended November 30, 2013. Our stock option plans provide for accelerated vesting under certain conditions.

[Table of Contents](#)

The following is a summary of our stock option activity as of and for the six months ended November 30, 2014:

	Options	Weight Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
	(in thousands)		(in years)	(in millions)
Outstanding at May 31, 2014	766	\$ 41	3.8	\$ 21.3
Granted	153	72		
Forfeited	(23)	56		
Exercised	(339)	41		
Outstanding at November 30, 2014	<u>557</u>	\$ 48	5.0	\$ 21.1
Options vested and exercisable at November 30, 2014	<u>419</u>	\$ 41	3.4	\$ 19.0

The aggregate intrinsic value of stock options exercised during the six months ended November 30, 2014 and November 30, 2013 was \$10.4 million and \$16.5 million, respectively. As of November 30, 2014, we had \$2.4 million of total unrecognized compensation cost related to unvested options which we expect to recognize over a weighted average period of 3.4 years. We recognized compensation expense for stock options of \$0.2 million in both the three months ended November 30, 2014 and November 30, 2013. We recognized compensation expense for stock options of \$0.3 million and \$0.6 million in the six months ended November 30, 2014 and November 30, 2013, respectively.

The weighted average grant-date fair value of each option granted during the six months ended November 30, 2014 was \$17. The fair value of each option granted during the six months ended November 30, 2014 was estimated on the date of grant using the Black-Scholes valuation model with the following weighted average assumptions for grants during the respective period:

Risk-free interest rates	1.57%
Expected volatility	23.65%
Dividend yields	0.13%
Expected lives	5 years

The risk-free interest rate is based on the yield of a zero coupon U.S. Treasury security with a maturity equal to the expected life of the option from the date of the grant. Our assumption on expected volatility is based on our historical volatility. The dividend yield assumption is calculated using our average stock price over the preceding year and the annualized amount of our current quarterly dividend. We based our assumptions on the expected lives of the options on our analysis of the historical exercise patterns of the options and our assumption on the future exercise pattern of options.

NOTE 9—SEGMENT INFORMATION

General Information

We operate in two reportable segments: North America merchant services and International merchant services. The merchant services segments primarily offer payment solutions for credit cards, debit cards and check-related services.

Information About Profit and Assets

We evaluate performance and allocate resources based on the operating income of each segment. The operating income of each segment includes the revenues of the segment less those expenses that are directly related to those revenues. Operating overhead, shared costs and certain compensation costs are included in Corporate in the following table. Interest and other income, interest and other expense and provision for income taxes are not allocated to the individual segments. We do not evaluate performance or allocate resources using segment asset data. The accounting policies of the reportable segments are the same as those described in our Annual Report on Form 10-K for the year ended May 31, 2014 and our summary of significant accounting policies in Note 1.

[Table of Contents](#)

Information on segments, including revenue by geographic distribution within segments, and reconciliations to consolidated revenues and consolidated operating income are as follows for the three and six months ended November 30, 2014 and 2013:

	Three Months Ended		Six Months Ended	
	November 30, 2014	November 30, 2013	November 30, 2014	November 30, 2013
	(in thousands)		(in thousands)	
Revenues:				
United States	\$ 404,784	\$ 361,793	\$ 818,825	\$ 725,626
Canada	83,992	85,240	173,957	171,912
North America merchant services	488,776	447,033	992,782	897,538
Europe	159,974	146,866	322,762	290,054
Asia-Pacific ⁽²⁾	48,541	40,223	86,642	76,215
International merchant services	208,515	187,089	409,404	366,269
Consolidated revenues	\$ 697,291	\$ 634,122	\$ 1,402,186	\$ 1,263,807
Operating income (loss) for segments:				
North America merchant services	\$ 74,246	\$ 70,437	\$ 152,183	\$ 140,136
International merchant services ⁽¹⁾	76,443	62,467	150,045	124,008
Corporate	(26,705)	(20,997)	(53,846)	(44,853)
Consolidated operating income	\$ 123,984	\$ 111,907	\$ 248,382	\$ 219,291
Depreciation and amortization:				
North America merchant services	\$ 20,441	\$ 13,612	\$ 40,918	\$ 27,066
International merchant services	12,566	13,799	25,056	27,143
Corporate	1,598	1,607	3,198	3,183
Consolidated depreciation and amortization	\$ 34,605	\$ 29,018	\$ 69,172	\$ 57,392

⁽¹⁾ During the six months ended November 30, 2014, operating income for the International merchant services segment includes a \$2.9 million gain on the sale of a component of our Russia business that leased automated teller machines to our sponsor bank in Russia. The gain is presented in the "Sales, general and administrative" line in the consolidated statements of income.

⁽²⁾ Revenues for Ezidebit, which operates primarily in Australia and New Zealand, are included in the Asia-Pacific region.

NOTE 10—SUBSEQUENT EVENT

On December 17, 2014, we announced an agreement with the Bank of the Philippine Islands ("BPI") to provide merchant acquiring and payment services in the Philippines. We believe this arrangement will enable us to add significant merchants to our existing business in the Philippines, further leverage our technological strengths and provide superior product and service offerings to BPI customers in the Philippines. Under this arrangement, BPI will contribute its existing merchant acquiring business to our subsidiary in the Philippines, Global Payments Asia-Pacific Philippines Incorporated ("GPAPPI"), in return for a 49% ownership interest in GPAPPI and a cash payment. We will retain a controlling 51% interest in GPAPPI. The transaction is expected to close late in the third quarter or early in the fourth quarter of fiscal 2015, subject to receipt of regulatory approvals and satisfaction of customary closing conditions. For fiscal 2015, we expect this transaction to be immaterial to revenue and earnings per share.

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

For an understanding of the significant factors that influenced our results, the following discussion should be read in conjunction with our unaudited consolidated financial statements and related notes appearing elsewhere in this report. This management's discussion and analysis should also be read in conjunction with the management's discussion and analysis and consolidated financial statements included in our Annual Report on Form 10-K for the fiscal year ended May 31, 2014. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from the results anticipated by our forward-looking statements. See "Special Cautionary Notice Regarding Forward-Looking Statements" below for additional information.

General

We are one of the largest worldwide providers of payment solutions for merchants, value-added resellers, enterprise software providers, financial institutions, government agencies, multi-national corporations and independent sales organizations ("ISOs") located throughout North America, Brazil, Europe and the Asia-Pacific region. We provide payment and digital commerce solutions and operate in two business segments: North America merchant services and International merchant services.

We were incorporated in Georgia as Global Payments Inc. in September 2000, and we spun-off from our former parent company on January 31, 2001. Including our time as part of our former parent company, we have been in the payments business since 1967. Global Payments Inc. and its consolidated subsidiaries are referred to collectively as "Global Payments," the "Company," "we," "our" or "us," unless the context requires otherwise.

Our North America merchant services and International merchant services segments target customers in many vertical industries including financial services, gaming, government, health care, professional services, restaurants, retail, universities, nonprofit organizations and utilities.

Our offerings enable merchants to accept card, electronic, check and digital-based payments at the point of sale. Our primary business model provides payment products and services directly to merchants as our end customers. We also provide similar products and services to financial institutions and a limited number of ISOs that, in turn, resell our products and services, in which case the financial institutions and select ISOs are our end customers. These particular services are marketed in the United States, Canada and parts of Europe.

The majority of merchant services revenue is generated on services priced as a percentage of transaction value or a specified fee per transaction, depending on card type. We also charge other fees based on specific services that are unrelated to the number of transactions or the transaction value. Revenue from credit cards and signature debit cards is generally based on a percentage of transaction value along with other related fees, while revenue from PIN-based debit cards is typically based on a fee per transaction.

Our products and services are marketed through a variety of sales channels that include a direct sales force, trade associations, agent and enterprise software providers and referral arrangements with value added resellers, ISOs, as well as proprietary telesales groups. We seek to leverage the continued shift to electronic payments by expanding market share in our existing markets through our distribution channels or through acquisitions in North America, the Asia-Pacific region and Europe, and investing in and leveraging technology and people. We also seek to enter new markets through acquisitions in Europe and the Asia-Pacific and Latin America regions.

Our business does not have pronounced seasonality in which more than 30% of our revenues occur in one fiscal quarter. However, each geographic channel has somewhat higher and lower quarters given the nature of the portfolio. While there is some variation in seasonality across markets, the first and fourth quarters are generally the strongest, and the third quarter tends to be the weakest due to lower volumes processed in the months of January and February.

Executive Overview

For the six months ended November 30, 2014, revenues increased 10.9% to \$1,402.2 million from \$1,263.8 million for the prior year, reflecting growth in most of our markets.

Consolidated operating income was \$248.4 million for the six months ended November 30, 2014 compared to \$219.3 million for the prior year. Net income attributable to Global Payments increased \$11.6 million, or 8.4%, to \$150.1 million for the six months ended November 30, 2014 from \$138.5 million in the prior year. Diluted earnings per share increased \$0.32 to \$2.20 for the six months ended November 30, 2014 from \$1.88 for the six months ended November 30, 2013.

North America merchant services segment revenue increased \$95.2 million, or 10.6%, to \$992.8 million for the six months ended November 30, 2014 from \$897.5 million for the six months ended November 30, 2013. North America merchant services segment operating income increased to \$152.2 million for the six months ended November 30, 2014 from \$140.1 million for the six months ended November 30, 2013, with operating margins of 15.3% and 15.6% for the six months ended November 30, 2014 and November 30, 2013, respectively. The growth in the North America merchant services segment for the six months ended November 30, 2014 was primarily due to growth in our U.S. direct channels, including the addition of Payment Processing, Inc. ("PayPros"), which we acquired on March 4, 2014.

International merchant services segment revenue increased \$43.1 million, or 11.8%, to \$409.4 million for the six months ended November 30, 2014 from \$366.3 million for the six months ended November 30, 2013. International merchant services operating income increased to \$150.0 million for the six months ended November 30, 2014 from \$124.0 million for the six months ended November 30, 2013, with operating margins of 36.6% and 33.9% for the six months ended November 30, 2014 and November 30, 2013, respectively. Growth in the International merchant services for the six months ended November 30, 2014 was due to growth in Europe (particularly in our Western Europe markets) and in the Asia-Pacific region, including growth in our e-commerce channel. Revenue growth in Europe was driven in part by card transaction and volume growth and a decrease in interchange rates in Spain due to recently effective legislation. Revenue growth in the Asia-Pacific region was primarily due to growth in card transactions and volume, including the impact of recently acquired Ezi Holdings Pty Ltd ("Ezidebit") described below.

On October 10, 2014, we completed the acquisition of 100% of the outstanding stock of Ezidebit for AU\$305.0 million less working capital of AU\$2.6 million (US\$268.1 million less working capital of US\$2.2 million), subject to adjustment based on a final determination of working capital. This acquisition was funded by a combination of cash on hand and borrowings on our revolving credit facility. Ezidebit is a leading integrated payments company focused on recurring payments verticals in Australia and New Zealand. Ezidebit markets its products through a network of integrated software vendors and direct channels to numerous vertical markets. We acquired Ezidebit to establish a direct distribution channel in Australia and New Zealand and to further enhance our existing integrated solutions offerings.

On September 30, 2014, we entered into an asset purchase agreement with Certegy Check Services, Inc., a Delaware corporation and wholly-owned subsidiary of Fidelity National Information Services, Inc. (NYSE:FIS) ("FIS"), to acquire its gaming business related to licensed gaming operators (the "FIS Gaming Business"). Pursuant to the terms of the asset purchase agreement, we will acquire substantially all of the assets of the FIS Gaming Business, which includes approximately 260 gaming client locations and certain tangible assets, for \$236.5 million, subject to certain adjustments at closing. We expect the acquisition to close during the fourth quarter of fiscal 2015, subject to the satisfaction of closing conditions, and to be funded from operating cash flows.

On December 17, 2014, shortly after the end of our second fiscal quarter, we announced an agreement with the Bank of the Philippine Islands ("BPI") to provide merchant acquiring and payment services in the Philippines. We believe this arrangement will enable us to add significant merchants to our existing business in the Philippines, further leverage our technological strengths and provide superior product and service offerings to BPI customers in the Philippines. Under this arrangement, BPI will contribute its existing merchant acquiring business to our subsidiary in the Philippines, Global Payments Asia-Pacific Philippines Incorporated ("GPAPPI"), in return for a 49% ownership interest in GPAPPI and a cash payment. We will retain a controlling 51% interest in GPAPPI. The transaction is expected to close late in the third quarter or early in the fourth quarter of fiscal 2015, subject to receipt of regulatory approvals and satisfaction of customary closing conditions. For fiscal 2015, we expect this transaction to be immaterial to revenue and earnings per share.

Results of Operations

Revenues

We derive our revenues from four primary sources: charges based on volumes and fees for services; charges based on transaction quantity; service fees; and equipment sales and rentals. Revenues generated by these areas depend upon a number of factors, such as demand for and price of our services, the technological competitiveness of our product offerings, our reputation for providing timely and reliable service, competition within our industry and general economic conditions.

In direct merchant acquiring, we provide payment services to merchants and, generally through our relationship with a member sponsor, fund settlement. Revenue for direct merchant services is recognized in the amount of merchant billing net of interchange. We market our direct merchant services through a variety of channels, including our ISO channel, whereby the ISO receives a share of the merchant profitability in the form of a monthly residual payment, which is reflected as a component of selling, general and administrative expense.

In indirect merchant acquiring, the partner, typically a financial institution or an ISO, is our customer. We provide payment services to the indirect customer's merchants, but do not provide sponsorship or funds settlement. We bill the indirect customer fees for transactions and various other services, which are recognized as revenue.

Operating Expenses

Cost of Service

Cost of service consists primarily of salaries, wages and related expenses paid to operations and technology-related personnel, including those who monitor our transaction processing systems and settlement functions; assessments and other fees paid to card networks; transaction processing systems, including third-party services; network telecommunications capability; depreciation and occupancy costs associated with the facilities performing these functions; amortization of intangible assets and provisions for operating losses.

Sales, General and Administrative Expenses

Sales, general and administrative expenses consist primarily of commissions paid to ISOs, independent contractors, and other third parties; salaries, wages and related expenses paid to sales personnel; non-revenue producing customer support functions and administrative employees and management; other selling expenses; occupancy of leased space directly related to these functions; share-based compensation expense and advertising costs.

Operating Income and Operating Margin

For the purpose of discussing segment operations, we refer to operating income as calculated by subtracting segment direct expenses from segment revenue. Overhead and shared expenses, including share-based compensation, are not allocated to segment operations; they are reported in the caption "Corporate." Similarly, references to operating margin regarding segment operations mean segment operating income divided by segment revenue.

[Table of Contents](#)

The following table shows key selected financial data for the three months ended November 30, 2014 and November 30, 2013, this data as a percentage of total revenues, and the changes between three months ended November 30, 2014 and November 30, 2013 in dollars and as a percentage of the prior year.

	Three Months Ended November 30, 2014	% of Revenue ⁽¹⁾	Three Months Ended November 30, 2013	% of Revenue ⁽¹⁾	Change	% Change
(dollar amounts in thousands)						
Revenues:						
United States	\$ 404,784	58.1%	\$ 361,793	57.1 %	\$ 42,991	11.9 %
Canada	83,992	12.0%	85,240	13.4 %	(1,248)	(1.5)%
North America merchant services	488,776	70.1%	447,033	70.5 %	41,743	9.3 %
Europe	159,974	22.9%	146,866	23.2 %	13,108	8.9 %
Asia-Pacific ⁽³⁾	48,541	7.0%	40,223	6.3 %	8,318	20.7 %
International merchant services	208,515	29.9%	187,089	29.5 %	21,426	11.5 %
Total revenues	<u>\$ 697,291</u>	<u>100%</u>	<u>\$ 634,122</u>	<u>100 %</u>	<u>\$ 63,169</u>	<u>10.0 %</u>
Consolidated operating expenses:						
Cost of service	\$ 257,796	37.0%	\$ 235,170	37.1 %	\$ 22,626	9.6 %
Sales, general and administrative	315,511	45.2%	294,045	46.4 %	21,466	7.3 %
Processing system intrusion	—	—%	(7,000)	(1.1)%	7,000	(100.0)%
Operating income	<u>\$ 123,984</u>	<u>17.8%</u>	<u>\$ 111,907</u>	<u>17.6 %</u>	<u>\$ 12,077</u>	<u>10.8 %</u>
Operating income (loss) for segments:						
North America merchant services	\$ 74,246		\$ 70,437		\$ 3,809	5.4 %
International merchant services	76,443		62,467		13,976	22.4 %
Corporate ⁽²⁾	(26,705)		(20,997)		(5,708)	27.2 %
Operating income	<u>\$ 123,984</u>		<u>\$ 111,907</u>		<u>\$ 12,077</u>	<u>10.8 %</u>
Operating margin for segments:						
North America merchant services	15.2%		15.8%		(0.6)%	
International merchant services	36.7%		33.4%		3.3 %	

⁽¹⁾ Percentage amounts may not sum to the total due to rounding.

⁽²⁾ Includes a processing system intrusion credit of \$7.0 million in the three months ended November 30, 2013.

⁽³⁾ Revenues for Ezidebit, which operates primarily in Australia and New Zealand, are included in the Asia-Pacific region.

[Table of Contents](#)

	Six Months Ended November 30, 2014	% of Revenue ⁽¹⁾	Six Months Ended November 30, 2013	% of Revenue ⁽¹⁾	Change	% Change
(dollar amounts in thousands)						
Revenues:						
United States	\$ 818,825	58.4%	\$ 725,626	57.4 %	\$ 93,199	12.8 %
Canada	173,957	12.4%	171,912	13.6 %	2,045	1.2 %
North America merchant services	992,782	70.8%	897,538	71.0 %	95,244	10.6 %
Europe	322,762	23.0%	290,054	23.0 %	32,708	11.3 %
Asia-Pacific ⁽³⁾	86,642	6.2%	76,215	6.0 %	10,427	13.7 %
International merchant services	409,404	29.2%	366,269	29.0 %	43,135	11.8 %
Total revenues	\$ 1,402,186	100%	\$ 1,263,807	100 %	\$ 138,379	10.9 %
Consolidated operating expenses:						
Cost of service	\$ 517,635	36.9%	\$ 465,915	36.9 %	\$ 51,720	11.1 %
Sales, general and administrative	636,169	45.4%	585,601	46.3 %	50,568	8.6 %
Processing system intrusion	—	—%	(7,000)	(0.6)%	7,000	(100.0)%
Operating income	\$ 248,382	17.7%	\$ 219,291	17.4 %	\$ 29,091	13.3 %
Operating income (loss) for segments:						
North America merchant services	\$ 152,183		\$ 140,136		\$ 12,047	8.6 %
International merchant services	150,045		124,008		26,037	21.0 %
Corporate ⁽²⁾	(53,846)		(44,853)		(8,993)	20.0 %
Operating income	\$ 248,382		\$ 219,291		\$ 29,091	13.3 %
Operating margin for segments:						
North America merchant services	15.3%		15.6%		(0.3)%	
International merchant services	36.6%		33.9%		2.7 %	

⁽¹⁾ Percentage amounts may not sum to the total due to rounding

⁽²⁾ Includes a processing system intrusion credit of \$7.0 million in the six months ended November 30, 2013.

⁽³⁾ Revenues for Ezidebit, which operates primarily in Australia and New Zealand, are included in the Asia-Pacific region.

Revenues

For the three months ended November 30, 2014, revenues increased 10.0% to \$697.3 million compared to the prior year, reflecting growth in most of our markets. For the six months ended November 30, 2014, revenues increased 10.9% to \$1,402.2 million compared to the prior year period.

North America Merchant Services Segment

For the three months ended November 30, 2014, revenue from our North America merchant services segment increased 9.3% to \$488.8 million compared to the prior year. For the six months ended November 30, 2014, revenue from our North America merchant services segment increased 10.6% to \$992.8 million compared to prior year. U.S. revenue growth was driven by transaction growth in our direct channels, including the addition of PayPros. For the three months ended November 30, 2014, revenue in Canada decreased 1.5% to \$84.0 million due to unfavorable changes in exchange rates. For the six months ended November 30, 2014, our Canadian revenue increased 1.2% to \$174.0 million compared to the prior year largely due to selective pricing initiatives that were partially offset by unfavorable changes in exchange rates.

[Table of Contents](#)

International Merchant Services Segment

For the three months ended November 30, 2014, International merchant services revenue increased 11.5% to \$208.5 million compared to the prior year. For the six months ended November 30, 2014, International merchant services revenue increased 11.8% to \$409.4 million compared to the prior year. Our Europe merchant services revenue for the three months ended November 30, 2014 increased 8.9% to \$160.0 million compared to the prior year. Europe merchant services revenue for the six months ended November 30, 2014 increased 11.3% to \$322.8 million compared to the prior year period. For the three months and six months ended November 30, 2014, revenue growth in Europe was driven primarily by card transaction and volume growth and a decrease in interchange rates in Spain, as well as growth in our e-commerce channel. This revenue growth was partially offset by unfavorable changes in exchange rates during the three months ended November 30, 2014.

Asia-Pacific merchant services revenue of \$48.5 million for the three months ended November 30, 2014 represents an increase of 20.7% compared to the prior year. Asia-Pacific merchant services revenue of \$86.6 million for the six months ended November 30, 2014 represents an increase of 13.7% compared to the prior year period. For the three months and six months ended November 30, 2014, revenue growth in the Asia-Pacific region was due largely to growth in card transactions and volume, including that from recently acquired Ezidebit.

Operating Expenses

Cost of service increased 9.6% for the three months ended November 30, 2014 compared to the prior year and increased 11.1% for the six months ended November 30, 2014 compared to the prior year. As a percentage of revenue, cost of service decreased slightly to 37.0% for the three months ended November 30, 2014 from 37.1% in the prior year. As a percentage of revenue, cost of service remained unchanged at 36.9% for the six months ended November 30, 2014 and 2013. The increase in cost of service was driven primarily by an increase in the variable costs associated with revenue growth and additional amortization expense and other incremental costs of service associated with our acquisitions of PayPros and Ezidebit.

Sales, general and administrative expenses increased 7.3% for the three months ended November 30, 2014 compared to the prior year and increased 8.6% for the six months ended November 30, 2014 compared to the prior year. As a percentage of revenues, sales, general and administrative expenses decreased to 45.2% for the three months ended November 30, 2014 from 46.4% in the prior year. As a percentage of revenues, sales, general and administrative expenses decreased to 45.4% for the six months ended November 30, 2014 from 46.3% in the prior year. The increase in sales, general and administrative expenses was primarily due to an increase in commission payments to third-party sales partners and incremental costs related to our acquisitions of PayPros and Ezidebit.

Processing System Intrusion

In early March of 2012, we identified and self-reported unauthorized access into a limited portion of our North America card processing system. Our investigation also revealed potential unauthorized access to servers containing personal information collected from merchants who applied for processing services. As a result of this incident, certain card networks removed us from their list of Payment Card Industry Data Security Standards ("PCI DSS") compliant service providers. We have since received reports on compliance covering our systems that process, store, transmit or otherwise utilize card data and we have been returned to the network list of PCI DSS compliant service providers. During the three months ended November 30, 2013, we recorded a credit of \$7.0 million associated with this incident related to insurance recoveries that we deemed probable of collecting at the balance sheet date.

[Table of Contents](#)

Operating Income and Operating Margin for Segments

North America Merchant Services Segment

Operating income in our North America merchant services segment increased 5.4% for the three months ended November 30, 2014 compared to the prior year. Operating income in our North America merchant services segment increased 8.6% for the six months ended November 30, 2014 compared to the prior year. The increase in operating income was primarily due to the increase in transactions and volume in our U.S. direct channels, including PayPros. The increase in operating income was partially offset by amortization and other incremental operating costs associated with PayPros. The operating margin was 15.2% and 15.8% for the three months ended November 30, 2014 and November 30, 2013, respectively. The operating margin was 15.3% and 15.6% for the six months ended November 30, 2014 and November 30, 2013, respectively.

International Merchant Services Segment

Operating income in our International merchant services segment increased 22.4% to \$76.4 million for the three months ended November 30, 2014 compared to the prior year. Operating income in our International merchant services segment increased 21.0% to \$150.0 million for the six months ended November 30, 2014 compared to the prior year. The increase in operating income was driven primarily by revenue growth in Spain and in our e-commerce channels, and the incremental revenue and operating margin from our acquisition of Ezidebit in the Asia-Pacific region. The operating margin was 36.7% and 33.4% for the three months ended November 30, 2014 and November 30, 2013, respectively. The operating margin was 36.6% and 33.9% for the six months ended November 30, 2014 and November 30, 2013, respectively.

Corporate

Corporate expenses increased 27.2% to \$26.7 million for the three months ended November 30, 2014 compared to \$21.0 million in the prior year, primarily due to the credit of \$7.0 million associated with the processing system intrusion recorded in the prior year period. Corporate expenses increased 20.0% to \$53.8 million for the six months ended November 30, 2014 compared to \$44.9 million in the prior year, primarily due to the credit of \$7.0 million associated with the processing system intrusion recorded in the prior year period and the settlement of a legal claim in the current year period.

Operating Income

For the three months ended November 30, 2014, our consolidated operating income increased 10.8% to \$124.0 million from \$111.9 million in the prior year. For the six months ended November 30, 2014, our consolidated operating income increased 13.3% to \$248.4 million from \$219.3 million in the prior year. The increase was primarily due to revenue growth in our North America and International merchant services segments partially offset by higher variable costs of services associated with revenue growth, higher amortization expense and other incremental operating costs associated with PayPros and Ezidebit. The increase in operating income during the three and six months ended November 30, 2014 was further offset by the processing system intrusion credit of \$7.0 million recorded in the prior year period.

[Table of Contents](#)

Other Income/Expense, Net

Other expense, net, increased to \$9.1 million for the three months ended November 30, 2014 compared to \$2.7 million in the prior year and increased to \$18.9 million for the six months ended November 30, 2014 compared to \$7.3 million in the prior year. The increase in the three and six months ended November 30, 2014 was due primarily to an increase in interest expense associated with increased borrowings and an increase in losses associated with our equity method investment in Comercia Global Payments Brazil, an unconsolidated subsidiary. Equity method losses recognized during the six months ended November 30, 2014 include costs associated with the renegotiation of certain contracts to increase operational efficiency. During the three months ended November 30, 2013, we recorded a \$2.1 million gain related to the sale of 50% Comercia Global Payments Brazil.

Provision for Income Taxes

Our effective tax rates were 25.8% and 26.9% for the three months ended November 30, 2014 and November 30, 2013, respectively. Our effective tax rates were 26.1% and 28.5% for the six months ended November 30, 2014 and November 30, 2013, respectively. The effective tax rate for the six months ended November 30, 2013 reflects the reduction to certain U.K. deferred tax assets due to enacted corporate tax rate reductions in the U.K. of 3%. Our effective tax rate differs from the U.S. statutory rate due to domestic and international tax planning initiatives and income generated in international jurisdictions with lower tax rates.

Noncontrolling Interests, Net of Tax

Noncontrolling interests, net of tax increased to \$10.5 million from \$6.0 million for the three months ended November 30, 2014 and November 30, 2013, respectively. Noncontrolling interests, net of tax increased to \$19.5 million from \$13.0 million for the six months ended November 30, 2014 and November 30, 2013, respectively. The increase in both periods is due primarily to income growth in Spain which is conducted through Comercia Global Payments of which we own a controlling 51% interest.

Liquidity and Capital Resources

A significant portion of our liquidity comes from operating cash flows. Cash flow from operations is used to make planned capital investments in our business, pursue acquisitions that meet our corporate objectives, pay down debt, repurchase shares of our common stock and pay dividends, each at the discretion of our Board of Directors. Accumulated cash balances are invested in high quality and marketable short-term instruments.

Our capital plan objectives are to support our operational needs and strategic plan for long-term growth while maintaining a low cost of capital. Short-term lines of credit are used in certain of our markets to fund settlement. Other bank financing, such as our corporate credit facility and our term loan, are used for general corporate purposes and to fund acquisitions. We regularly evaluate our liquidity and capital position relative to cash requirements, and we may elect to raise additional funds in the future, either through the issuance of debt, equity or otherwise.

At November 30, 2014, we had cash and cash equivalents totaling \$644.5 million. Of this amount, we consider \$223.5 million to be available cash.

Available cash excludes settlement related and merchant reserve cash balances. Settlement related cash balances represent funds that we hold when the incoming amount from the card networks precedes the funding obligation to the merchant. Settlement related cash balances are not restricted; however, these funds are generally paid out in satisfaction of settlement processing obligations the following day. Merchant reserve cash balances represent funds collected from our merchants that serve as collateral to minimize contingent liabilities associated with any losses that may occur under the merchant agreement ("Merchant Reserves"). At November 30, 2014, our cash and cash equivalents included \$169.6 million related to Merchant Reserves. While this cash is not restricted in its use, we believe that designating this cash as Merchant Reserves strengthens our fiduciary standing with our member sponsors and is in accordance with the guidelines set by the card networks.

Our available cash balance includes \$185.9 million of cash held by foreign subsidiaries whose earnings are considered permanently reinvested for U.S. tax purposes. These cash balances reflect our capital investments in these subsidiaries and the accumulation of cash flows generated by each subsidiary's operations, net of cash flows used to service debt locally and fund non-U.S. acquisitions. We believe that we are able to maintain a sufficient level of liquidity for our domestic operations and commitments

[Table of Contents](#)

without repatriation of the earnings of these foreign subsidiaries. If we were to repatriate some or all of the cash held by such foreign subsidiaries, we do not believe that the associated income tax liabilities would have a significant impact on our liquidity.

Operating activities provided net cash of \$226.9 million for the six months ended November 30, 2014 compared to \$411.7 million during the six months ended November 30, 2013 primarily due to an increase in cash used to fund settlement partially offset by growth in our earnings. Fluctuations in settlement assets and obligations are largely due to timing of month end cut-off.

Net cash used in investing activities increased from \$39.1 million for the six months ended November 30, 2013 to \$246.2 million for the six months ended November 30, 2014. During the six months ended November 30, 2014, we invested net cash of \$218.8 million to acquire Ezidebit, and we made an additional investment of \$3.9 million in Comercia Global Payments Brazil. Cash used for these investments was partially offset by \$10.4 million of proceeds we received from the sale of a component of our Russia business that leased automated teller machines to our sponsor bank in Russia.

For the six months ended November 30, 2014, financing activities provided net cash of \$105.0 million compared to \$47.5 million in the prior year. During the six months ended November 30, 2014, net borrowings under long-term debt were \$207.3 million compared to \$30.6 million in the prior year. The increase in net borrowings under long-term debt reflects amounts used to partially fund our acquisition of Ezidebit. During the six months ended November 30, 2014, net borrowings on short-term lines of credit used to fund settlement were \$90.6 million compared to \$259.0 million in the prior year. Fluctuations in short-term lines of credit are largely due to timing of month end cut-off on settlement. The decrease in borrowings under our short-term lines of credit offset the increase in borrowings under our long-term debt. The net proceeds from these borrowing activities were offset by common stock repurchases of \$179.7 million during the six months ended November 30, 2014 compared to \$250.2 million in the prior year and cash used to fund distributions to noncontrolling interests and dividends.

We believe that our current level of cash and borrowing capacity under our lines of credit described below, together with future cash flows from operations, are sufficient to meet the needs of our existing operations and planned improvements for the foreseeable future. During fiscal year 2015, we expect capital expenditures to approximate \$95.0 million.

Contractual Obligations

The operating lease commitments disclosed in our Annual Report on Form 10-K for the year ended May 31, 2014 have not changed significantly. Our remaining current contractual and other obligations are as follows:

Long-Term Debt and Credit Facilities

As of November 30, 2014 and May 31, 2014, outstanding debt consisted of the following:

	November 30, 2014	May 31, 2014
Lines of credit:	(in thousands)	
Corporate credit facility - long-term	\$ 351,000	\$ 140,000
Short-term lines of credit	530,721	440,128
Total lines of credit	881,721	580,128
Notes payable	—	3,679
Term loan	1,250,000	1,250,000
Total debt	<u>\$ 2,131,721</u>	<u>\$ 1,833,807</u>
Current portion	\$ 577,596	\$ 457,805
Long-term debt	1,554,125	1,376,002
Total debt	<u>\$ 2,131,721</u>	<u>\$ 1,833,807</u>

The term loan is a five-year senior unsecured \$1.25 billion term loan that expires February 28, 2019 and bears interest, at our election, at either the London Interbank Offered Rate ("LIBOR") or a base rate, in each case plus a leverage-based margin. As of

[Table of Contents](#)

November 30, 2014, the interest rate on the term loan was 1.90%. Commencing in May 2015 and ending in November 2018, the term loan has scheduled quarterly principal payments of 1.25%, increasing up to 2.50% of the original principal balance. At maturity, 27.5% of the term loan will have been repaid through scheduled amortization and the remaining principal balance will be due. With notice, the term loan may be voluntarily prepaid at any time, in whole or in part, without penalty.

The corporate credit facility is a five-year senior unsecured \$1.0 billion revolving credit facility that expires February 28, 2019 and bears interest, at our election, at either LIBOR or a base rate, in each case plus a leverage-based margin. Borrowing under the corporate credit facility is available in various currencies. As of November 30, 2014, the outstanding balance on the corporate credit facility was \$351.0 million, and the interest rate was 1.88%. The corporate credit facility is available for general corporate purposes.

The corporate credit facility allows us to issue standby letters of credit of up to \$100.0 million in the aggregate. Outstanding letters of credit under the corporate credit facility reduce the amount of borrowings available to us. At November 30, 2014 and May 31, 2014, we had standby letters of credit of \$8.0 million and \$8.1 million, respectively. The total available incremental borrowings under our corporate credit facility at November 30, 2014 and May 31, 2014 was \$641.0 million and \$851.9 million, respectively.

The agreements contain customary affirmative and restrictive covenants, including, among others, financial covenants based on our leverage and fixed charge coverage ratios. Please see "Compliance with Covenants" below. Each of the agreements includes customary events of default, the occurrence of which, following any applicable cure period, would permit lenders to, among other things, declare the principal, accrued interest and other obligations to be immediately due and payable.

Short-term Lines of Credit

We have short-term lines of credit with banks in the United States and Canada as well as several countries in Europe and the Asia-Pacific region in which we do business. The short-term lines of credit, which are primarily used to fund settlement, generally have variable short-term interest rates and are subject to annual review. The credit facilities are generally denominated in local currency but may, in some cases, facilitate borrowings in multiple currencies. For certain of our lines of credit, the line of credit balance is reduced by the amount of cash we have on deposit in specific accounts with the lender when determining compliance with the credit limit. Accordingly, the line of credit balance may exceed the stated credit limit at any given point in time, when in fact the combined position is less than the credit limit. As of November 30, 2014 and May 31, 2014, we had \$852.4 million and \$440.1 million, respectively, of additional borrowing capacity under our short-term lines of credit to fund settlement.

Compliance with Covenants

There are certain financial and non-financial covenants contained in our various credit facilities and term loan. Our term loan and corporate credit facility agreements include financial covenants requiring (i) a leverage ratio no greater than 3.50 to 1.00 (3.75 to 1.00 in the case of a business acquisition, subject to certain conditions) and (ii) a fixed charge coverage ratio no less than 2.50 to 1.00. We complied with all applicable covenants as of and for the three and six months ended November 30, 2014 and as of May 31, 2014.

Interest Rate Swap Agreement

On October 9, 2014, we entered into an interest rate swap agreement with a major financial institution to hedge changes in cash flows attributable to interest rate risk on a portion of our variable-rate debt instruments. The interest rate swap agreement, which became effective on November 1, 2014, will mature on February 28, 2019. The fair value of our interest rate swap as of November 30, 2014 was \$3.9 million and is reflected in accounts payable and accrued liabilities in our consolidated balance sheet. Net amounts to be received or paid under the swap agreement are reflected as adjustments to interest expense. Since the interest rate swap agreement has been designated as a cash flow hedge, unrealized gains or losses resulting from adjusting this swap to fair value are recorded as elements of AOCI within the consolidated balance sheets except for any ineffective portion of the change in fair value, which is immediately recorded in interest expense. During the three and six months ended November 30, 2014, there was no ineffectiveness. The fair value of the swap agreement is determined based on the present value of the estimated future net cash flows using implied rates in the applicable yield curve as of the valuation date. This derivative instrument is classified within Level 2 of the valuation hierarchy.

At November 30, 2014, our interest rate swap agreement effectively converted \$500.0 million of our variable-rate debt to a fixed rate of 1.52% plus a leverage-based margin. During the three and six months ended November 30, 2014, we recognized \$0.5 million in interest expense related to settlements on the interest rate swap. The amount in AOCI at November 30, 2014 related to our interest rate swap that is expected to be reclassified into interest expense during the next 12 months is not material.

Critical Accounting Estimates

In applying the accounting policies that we use to prepare our consolidated financial statements, we necessarily make accounting estimates that affect our reported amounts of assets, liabilities, revenues and expenses. Some of these accounting estimates require us to make assumptions about matters that are highly uncertain at the time we make the accounting estimates. We base these assumptions and the resulting estimates on historical information and other factors that we believe to be reasonable under the circumstances, and we evaluate these assumptions and estimates on an ongoing basis. In many instances, however, we reasonably could have used different accounting estimates, and, in other instances, changes in our accounting estimates could occur from period to period, with the result in each case being a material change in the financial statement presentation of our financial condition or results of operations. We refer to accounting estimates of this type as “critical accounting estimates.”

Accounting estimates necessarily require subjective determinations about future events and conditions. During the three and six months ended November 30, 2014, we did not adopt any new critical accounting policies, did not change any critical accounting policies and did not change the application of any critical accounting policies from the year ended May 31, 2014. You should read the Critical Accounting Estimates in Item 7 – Management’s Discussion and Analysis of Financial Condition and Results of Operations, Item 1A – Risk Factors included in our Annual Report on Form 10-K for the year ended May 31, 2014 and our summary of significant accounting policies in Note 1 of the notes to the unaudited consolidated financial statements in this Quarterly Report on Form 10-Q.

Special Cautionary Notice Regarding Forward-Looking Statements

We believe that it is important to communicate our plans and expectations about the future to our shareholders and to the public. Investors are cautioned that some of the statements we use in this report contain forward-looking statements and are made pursuant to the “safe-harbor” provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements involve a number of risks and uncertainties, are predictive in nature, and depend upon or refer to future events or conditions. You can sometimes identify forward-looking statements by our use of the words “believes,” “anticipates,” “expects,” “intends,” “plans” and similar expressions. Actual events or results might differ materially from those expressed or forecasted in these forward-looking statements.

Although we believe that the plans and expectations reflected in or suggested by our forward-looking statements are reasonable, those statements are based on a number of assumptions, estimates, projections or plans that are inherently subject to significant risks, uncertainties, and contingencies that are subject to change. Accordingly, we cannot guarantee you that our plans and expectations will be achieved. Our actual revenues, revenue growth and margins, other results of operations and shareholder values could differ materially from those anticipated in our forward-looking statements as a result of many known and unknown factors. Important factors that may cause actual events or results to differ materially from those anticipated by our forward-looking statements include our potential failure to safeguard our data; increased competition from nontraditional competitors; our ability to update our products and services in a timely manner; potential systems interruptions or failures; software defects or undetected errors; our ability to maintain Visa and MasterCard registration and financial institution sponsorship; our reliance on financial institutions to provide clearing services in connection with our settlement activities; our potential failure to comply with card network requirements; increased merchant, referral partner or ISO attrition; our ability to increase our share of existing markets and expand into new markets; unanticipated increases in chargeback liability; increases in credit card network fees; changes in laws, regulations or network rules or interpretations thereof; foreign currency exchange and interest rate risks; political, economic and regulatory changes in the foreign countries in which we operate; future performance, integration and conversion of acquired operations; loss of key personnel; and other risk factors presented in Item 1A – Risk Factors of our Annual Report on Form 10-K for the fiscal year ended May 31, 2014, which we advise you to review.

[Table of Contents](#)

Our forward-looking statements speak only as of the date they are made and should not be relied upon as representing our plans and expectations as of any subsequent date. We specifically disclaim any obligation to release publicly the results of any revisions to our forward-looking statements.

Where to Find More Information

We file annual and quarterly reports, proxy statements and other information with the Securities and Exchange Commission (the "SEC"). You may read and print materials that we have filed with the SEC from its website at www.sec.gov. In addition, certain of our SEC filings, including our annual report on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K and amendments thereto can be viewed and printed from the investor information section of our website at www.globalpaymentsinc.com free of charge. Certain materials relating to our corporate governance, including our senior financial officers' code of ethics, are also available in the investor information section of our website. Copies of our filings and specified exhibits and these corporate governance materials are also available, free of charge, by writing or calling us using the address or phone number on the cover of this Form 10-Q. You may also telephone our investor relations office directly at (770) 829-8234. We are not including the information on our website as a part of, or incorporating it by reference into, this report.

Our SEC filings may also be viewed and copied at the following SEC public reference room, and at the offices of the New York Stock Exchange, where our common stock is quoted under the symbol "GPN."

SEC Public Reference Room
100 F Street, N.E.
Washington, DC 20549
(You may call the SEC at 1-800-SEC-0330 for further information on the public reference room.)

NYSE Euronext
20 Broad Street
New York, NY 10005

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

We are exposed to market risk related to changes in interest rates on our debt and cash investments. Our long-term debt bears interest, at our election, at either LIBOR or a base rate, in each case plus a leverage-based margin. We invest our excess cash in securities that we believe are highly liquid and marketable in the short term and earn a floating rate of interest. These investments are not held for trading or other speculative purposes. Under our current policies, we may selectively use derivative instruments, such as interest rate swaps or forward rate agreements, to manage all or a portion of our exposure to interest rate changes. We have an interest rate swap that reduces a portion of our exposure to market interest rate risk on our LIBOR-based debt as discussed in Note 5 to the unaudited consolidated financial statements. Using the November 30, 2014 balances outstanding under these unhedged, variable-rate debt arrangements, short-term lines of credit and cash investments, we estimate that a hypothetical increase of 100 basis points in applicable interest rates as of November 30, 2014 would not result in a material impact to pre-tax income, cash flows or financial position.

Foreign Currency Exchange Rate Risk

A substantial amount of our operations are conducted in foreign currencies. Consequently, a portion of our revenues and expenses may be affected by fluctuations in foreign currency exchange rates. We are also affected by fluctuations in exchange rates on assets and liabilities related to our foreign operations. We have not historically hedged our translation risk on foreign currency exposure, but we may do so in the future.

Item 4. Controls and Procedures

As of November 30, 2014, management carried out, under the supervision and with the participation of our principal executive officer and principal financial officer, an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934). Based on this evaluation, our principal executive officer and principal financial officer concluded that, as of November 30, 2014, our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in applicable rules and forms and are designed to ensure that information required to be disclosed in those reports

[Table of Contents](#)

is accumulated and communicated to management, including our principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

There were no changes in our internal control over financial reporting during the quarter ended November 30, 2014, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - OTHER INFORMATION

Item 1. Legal Proceedings

None.

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

(c) Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The shares repurchased in the second quarter of fiscal 2015, the approximate average price paid, including commissions, and the approximate dollar value remaining available for purchase are as follows:

<u>Plan category</u>	<u>Total Number of Shares Purchased</u>	<u>Approximate Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</u>	<u>Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs</u>
September 1, 2014 - September 30, 2014	—	\$ —	—	
October 1, 2014 - October 31, 2014	656,924	72.22	656,924	
November 1, 2014 - November 30, 2014	—	—	—	
Total	<u>656,924</u>	<u>\$ —</u>	<u>656,924</u>	<u>\$ 197,705,000</u>

On July 29, 2014, we announced that our Board of Directors authorized up to \$200.0 million of repurchases of our common stock in addition to any remaining balance of repurchase authorizations announced in previous quarters.

Item 6. Exhibits

List of Exhibits

- 2.1* Sale and Purchase Agreement, dated as of September 15, 2014, by and among Global Payments Australia 2 Pty Ltd, Global Payments Inc., as guarantor, shareholders of Ezi Holdings Pty Ltd and certain guarantors of the sellers.
- 31.1* Certification of the Principal Executive Officer pursuant to Exchange Act Rule 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2* Certification of the Principal Financial Officer pursuant to Exchange Act Rule 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1* Certification of the Principal Executive Officer and the Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 101* The following financial information from the Quarterly Report on Form 10-Q for the quarter ended November 30, 2014, formatted in XBRL (eXtensible Business Reporting Language) and filed electronically herewith: (i) the Unaudited Consolidated Statements of Income; (ii) the Consolidated Balance Sheets; (iii) the Unaudited Consolidated Statements of Cash Flows; (iv) the Unaudited Consolidated Statements of Changes in Equity; and (v) the Notes to Unaudited Consolidated Financial Statements.

* Filed herewith.

SIGNATURES

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

Global Payments Inc.
(Registrant)

Date: January 8, 2015

/s/ Cameron M. Bready

Cameron M. Bready
Chief Financial Officer

Date: January 8, 2015

/s/ Daniel C. O'Keefe

Daniel C. O'Keefe
Chief Accounting Officer

Agreement

Sale and purchase agreement

The Sellers

The Sellers' Guarantors

Global Payments Australia 2 Pty Limited

Global Payments Inc.

Table of contents

	The agreement	1
	Operative part	2
1	Definitions, interpretation and agreement components	2
	1.1 Definitions	2
	1.2 Interpretation provisions	10
	1.3 Business Day	11
	1.4 Inclusive expressions	11
	1.5 Agreement components	11
2	Conditions for Completion	11
	2.1 Conditions	11
	2.2 Notice	11
	2.3 Reasonable endeavours	11
	2.4 Waiver	11
	2.5 Cut Off Date	11
	2.6 No binding agreement for transfer	12
	2.7 Material Adverse Effect condition	12
3	Sale and purchase	12
	3.1 Shares	12
	3.2 Associated Rights	12
	3.3 Purchase Price	12
	3.4 Respective Proportions	12
	3.5 Payment of the Completion Payment	12
	3.6 Payment of other amounts	12
	3.7 Waiver of rights	13
	3.8 Purchase obligations interdependent	13
	3.9 Title and risk	13
4	Period before Completion	13
	4.1 Carrying on of business	13
	4.2 Control Accounts	14
	4.3 Permitted acts	14

4.4	Declaration and payment of Special Dividend	14
4.5	Access to Business before Completion	14
4.6	D&O insurance	15

5	Termination	15
	5.1 Termination by the Buyer	15
	5.2 Termination by the Seller	15
	5.3 Effect of termination	15
	5.4 No other right to terminate or rescind	15
6	Completion	15
	6.1 Time and Place	15
	6.2 Completion	15
	6.3 Notice to complete	16
	6.4 Completion simultaneous	16
7	Completion Working Capital Statement	16
	7.1 Preparation of Completion Working Capital Statement	16
	7.2 Purchase Price adjustments following Completion Working Capital Statement	16
	7.3 Payment of Actual Adjustment Amount	16
8	Escrow Account	16
	8.1 Establishment of Escrow Account	16
	8.2 Operation of Escrow Account	17
	8.3 Payments in respect of Resolved Claims before Escrow Termination Date	17
	8.4 No Unresolved Claims on Escrow Termination Date	17
	8.5 Unresolved Claims on Escrow Termination Date	17
	8.6 Interest	17
9	Restraint	17
	9.1 Non competition	17
	9.2 Non solicitation	18
	9.3 Restraint period	18
	9.4 Restraint area	18
	9.5 Separate restrictions	18
	9.6 Exceptions	18
	9.7 Assignment	18
	9.8 Acknowledgement	18
	9.9 Proceedings	18
10	Warranties and Indemnities	19
	10.1 Warranties by the Sellers	19
	10.2 Basis of Sellers' liability	19
	10.3 Independent Warranties	19
	10.4 Reliance	19
	10.5 Indemnity for breach of Seller Title and Capacity Warranty	19
	10.6 Tax indemnity	19
	10.7 Refunds by Buyer	19
11	Qualifications and limitations on Claims	20

	11.1 Disclosure	20
	11.2 Fair Disclosure	20
	11.3 Awareness	21
	11.4 Acknowledgements	21
	11.5 Maximum and minimum amounts	22
	11.6 Time limits	22
	11.7 Disposal of Business	22
	11.8 Recovery under other rights and reimbursement	23
	11.9 Exclusions	23
	11.10 General limitations	23
	11.11 Other limitations	24
	11.12 Buyer benefits	24
	11.13 Sole remedy	25
	11.14 Payments affecting the Purchase Price	25
	11.15 Independent limitations	25
12	Trustee limitation of liability	25
	12.1 Capacity	25
	12.2 Limitation of liability	25
	12.3 Limitation not to apply	25
13	Procedures for dealing with Claims	25
	13.1 Notice of Claims	25
	13.2 Third Party Claims	26
	13.3 Tax Demands	27
14	Buyer Warranties	28
	14.1 Buyer Warranties	28
	14.2 Independent Warranties	28
	14.3 Reliance	28
15	Period after Completion	28
	15.1 Appointment of proxy	28
	15.2 Access to records by Sellers	28
	15.3 Consents to change in control	29
	15.4 Pre-Completion Tax returns	29
16	Confidentiality and announcements	30
	16.1 Agreed announcement	30
	16.2 Confidentiality	31
	16.3 Confidentiality Agreement superseded	31
17	Duties, costs and expenses	31
	17.1 Duties	31
	17.2 Costs and expenses	32

18	GST	32
	18.1 Definitions	32
	18.2 GST	32
	18.3 Tax invoices	32
	18.4 Reimbursements	32
19	Guarantee by Buyer's Guarantor	32
	19.1 Guarantee and indemnity	32
	19.2 Extent of guarantee and indemnity	32
	19.3 Principal and independent obligation	33
	19.4 Continuing guarantee and indemnity	33
	19.5 No withholdings	33
	19.6 Currency	33
	19.7 No set off	33
	19.8 Buyer's Guarantor's Liability	33
20	Guarantee by Sellers' Guarantors	33
	20.1 Guarantee and indemnity	33
	20.2 Extent of guarantee and indemnity	34
	20.3 Principal and independent obligation	34
	20.4 Continuing guarantee and indemnity	34
	20.5 No withholdings	34
	20.6 Currency	34
	20.7 No set off	34
	20.8 Buyer's Guarantor's Liability	34
21	Sellers' Representatives	34
	21.1 Authority	34
	21.2 Replacement	35
22	Notices	35
	22.1 Form of Notice	35
	22.2 How Notice must be given and when Notice is received	36
23	General	36
	23.1 Governing law and jurisdiction	36
	23.2 Service of process	37
	23.3 Invalidity and enforceability	37
	23.4 Waiver	37
	23.5 Variation	37
	23.6 Assignment	37
	23.7 Further action to be taken at each party's own expense	37
	23.8 Relationship of the parties	37
	23.9 Exercise of rights	38
	23.10 Remedies cumulative	38
	23.11 Counterparts	38

23.12	Entire Agreement	38
23.13	No reliance	38
23.14	Default Interest	38
23.15	No withholdings	38
23.16	No partnership	38
23.17	Effect of Completion	38
23.18	No set-off, deduction or counterclaim	39
	Signing page	39

[Schedules and attachments other than the signing page have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be furnished to the SEC upon request.]

Schedules:

Shares

Warranties

Buyer Warranties

Completion Steps

Completion Working Capital

Completion Working Capital Statement

Intellectual Property

Key Property Leases

Other Encumbrances

Target Structure Diagram

Target Entities

Top Customers

Financing Arrangements

Data Room Index

Questions and Answers

Product Disclosure Statement

Calculation of EBITDA

Sale and purchase agreement

Date ► September 15, 2014

Between the parties	
Sellers	<p>Jambach Pty Limited ACN 100 647 283 (in its capacity as trustee of Dutch Investment Trust) of 16 Cox Road, Windsor, Queensland 4030</p> <p>MSP Management Pty Limited ACN 010 927 410 (in its capacity as trustee of The Welsh Management Trust) of Level 1, Innovation Parkway Birtinya</p> <p>Korobosea Pty Limited ACN 110 252 241 (in its capacity as trustee of Pikinini No 1 Trust) of Level 7, 193 North Quay, Brisbane, Queensland 4000</p> <p>Marea Mason Holland (in her capacity as trustee of Holland Superannuation Fund) of 8 Kullaroo Street, The Gap, Queensland 4061</p> <p>Zacstar Pty Limited ACN 101 907 091 (in its capacity as trustee of Zenonos Discretionary Trust) of 6 Broadway Street, Woolloongabba, Queensland 4102</p> <p>Moramou2 Pty Limited ACN 153 507 629 (in its capacity as trustee of Mora Mou Family Trust) of 6 Broadway Street, Woolloongabba, Queensland 4102</p> <p>Ritdan Pty Limited ACN 143 141 539 (in its capacity as trustee of Ritdan Finance Trust) of Level 1, 195 Given Terrace, Paddington, Queensland 4064</p> <p>S Seven D Pty Limited ACN 130 881 971 (in its capacity as trustee of S Seven D Discretionary Trust) of Level 1, 195 Given Terrace, Paddington, Queensland 4064, (together, the Sellers)</p>
Sellers' Guarantors	<i>As described in Schedule 13</i>
Buyer	<p>Global Payments Australia 2 Pty Ltd (ACN 601 396 847) of C/o Hopkins Corporate Solutions Pty Ltd, Unit 3, 25 Darley Street East, Mona Vale NSW 2103.</p>
Buyer's Guarantor	<p><i>Global Payments Inc.</i> of 10 Glenlake Parkway, North Tower, Atlanta GA 30328 USA</p>
Background	<p>Each of the Sellers owns the Shares set out opposite the name of that Seller in Schedule 1.</p> <p>Each of the Sellers has agreed to sell the Shares set out opposite the name of that Seller in Schedule 1, and the Buyer has agreed to buy the Shares, on the terms and conditions of this agreement.</p> <p>The Buyer's Guarantor has agreed to guarantee the Buyer's obligations under this agreement.</p>
The parties agree	As set out in the Operative part of this agreement, in consideration of, among other things, the mutual promises contained in this agreement.



1 Definitions, interpretation and agreement components

1.1 Definitions

The meaning of terms used in this agreement are set out below.

Term	Meaning
Accounting Standards	has the meaning given in Schedule 5.
Accounts	the audited consolidated balance sheet, cash flow statements and income statements of the Target Group as at the Accounts Date including the notes those financial statements.
Accounts Date	30 June 2014.
ACN	Australian Company Number.
Actual Adjustment Amount	is equal to the Actual Completion Working Capital minus the Estimated Adjustment Amount expressed as a positive or negative number (as applicable).
Actual Completion Working Capital	an amount equal to the working capital of the Target Group as set out in the final Completion Working Capital Statement (as adjusted by the Expert's Report, if applicable) expressed as a positive or negative number (as applicable).
Affiliate	in relation to a party, means: <ul style="list-style-type: none"> a shareholder of the party; a director, secretary or officer of the party; or a Related Entity of the party.
ASIC	the Australian Securities and Investments Commission.
Authorisation	any approval, licence, consent, authority or permit, including Australian Financial Services Licence no. 315388 held by Ezi Managements Pty Limited ACN 110 689 711.
Business	the business of electronic transaction processing carried out by the Target Entities.
Business Day	a day on which banks are open for business in Brisbane, Australia, other than a Saturday, Sunday or public holiday.
Business Intellectual Property	the Intellectual Property Rights that are used or held for use by a Target Entity or otherwise necessary for the operation of the Business as currently conducted and proposed to be conducted by the Target Entities, including the Intellectual Property Rights listed in Schedule 7 but excluding Business Software used by a Target Entity in the conduct of the Business; any other Intellectual Property Rights owned by a Target Entity but excluding Business Software; and the right to take action against Third Parties for infringement of those Intellectual Property Rights whether occurring before or after the date of this agreement but excluding the Third Party Intellectual Property.
Business Records	all original and certified copies of the books, records, documents, information, accounts and data (whether machine readable or in printed form) owned by or relating to a Target Entity or the property of a Target Entity and any source material used to prepare them.
Business Software	the Software that is used or held for use by a Target Entity or otherwise necessary for the operation of the Business as currently conducted and proposed to be conducted by the Target Entities including the Software listed in Schedule 7.
Buyer Group	the Buyer and each of its Related Entities (other than the Target Entities) and Buyer Group Member means any member of the Buyer Group.
Buyer Insolvency Event	an Insolvency Event in relation to the Buyer or the Buyer's Guarantor.
Buyer Warranties	the warranties in Schedule 3.
Cash	the aggregate amount, as at the Effective Time, of any money in cleared funds in an account with a bank or other financial institution, or in the form of a security bond for an obligation or other cash equivalents, to which any Target Entity is legally or beneficially entitled, but does not include any money in the Control Accounts.
Claim	any claim, demand, legal proceedings or cause of action including any claim, demand, legal proceedings or cause of action under common law or under statute in any way relating to this agreement or the Sale and includes a claim, demand, legal proceedings or cause of action arising from a breach of Warranty or under an Indemnity in this agreement.
Completion	completion of the sale and purchase of the Shares under clause 6.

Completion Date	if both the condition in clause 2.1(a) is satisfied and the condition in clause 2.1(b)(1) and 2.1(b)(2) is satisfied or waived before 8.00 am on the day that is 3 Business Days before any Friday, that Friday, otherwise the following Friday (or such other date as may be agreed in writing between the Buyer and the Sellers).
Completion Payment	the Headline Purchase Price, plus the Estimated Adjustment Amount; less the aggregate of: (a) the Escrow Amount; (b) the Special Dividend Payment Amount; (c) the Transaction Costs Amount; and (d) Employee Transaction Bonus Amount.
Completion Steps	the steps that each party must carry out, which are set out in Schedule 4.
Completion Working Capital Statement	the working capital statement of the Target Group prepared as at the Effective Time in accordance with Schedule 5 and in the format set out in Schedule 6 together with such information as Schedule 5 or Schedule 6 requires.
Company	Ezi Holdings Pty Limited ACN 122 581 284.
Confidentiality Agreement	the confidentiality agreement dated 2 June 2014 between the Company and Global Payments Inc.
Consolidated Group	a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the ITAA 1997.
Contract	any currently enforceable contract, agreement, non-governmental licence, sales and purchase orders, indenture, note, bond, instrument, lease, conditional sales contract, mortgage, license, franchise agreement, concession agreement, security interest, guaranty, binding commitment or other agreement.
Control Accounts	the following accounts: Account number 034002-333576 operated by Westpac Banking Corporation Limited (for the EDMS (Aust) platform); Account number 020386-0091282-026 operated by Bank of New Zealand (for the EDMS (NZ) platform); Account number 034001-118292 operated by Westpac Banking Corporation Limited (for the Highlander (Aust) platform); Account number 034002-548323 operated by Westpac Banking Corporation Limited (for the BEII (Aust) platform); Account number 036011-253737 operated by Westpac Banking Corporation Limited (for the RegalCroft (Aust) platform); Account number 020386-0091282-025 operated by Bank of New Zealand (for the RegalCroft (NZ) platform); Account number 484799-502194570 operated by Suncorp Group Limited (for the PaymentHub platform); and Account number 082489-895372699 operated by National Australia Bank Limited (for the eMatters platform).
Control	in respect of an entity, the direct or indirect capacity to control decisions about the financial or operating policies of that entity, and includes the direct or indirect capacity to control the composition of the board or other governing body of that entity.
Controlled Entity	in relation to an entity, another entity that is Controlled by it.
Corporations Act	the <i>Corporations Act 2001 (Cth)</i> .
Cut Off Date	30 November 2014.
Data Room	the online data room accessed via internet link https://dataroom.ansarada.com/malta%7C10255/523056/TermsOfAccess.asp .
Demand	a written notice of, or demand for, an amount payable.
Disclosure Letter	a letter dated the date of this agreement addressed by the Sellers' Representatives to the Buyer disclosing facts, matters and circumstances that are, or may be, inconsistent with the Warranties, and includes any attachments to that letter.
Disclosure Materials	all documents and information that were provided to the Buyer by the Sellers or any Seller Group Representative or Advisor in the Data Room and made available to the Buyer, its representatives or advisers, an index of which is attached as Attachment A; all written answers given to written questions submitted by the Buyer, its representatives or advisers as part of the question and answer process via the Data Room referred to above, a copy of which is attached as Attachment B; and the information set out in the Disclosure Letter, as reproduced on a CD or DVD in the form agreed between the Sellers' Representatives and the Buyer and having been initialled by the Sellers' Representatives and the Buyer and delivered to the Sellers' Representatives and the Buyer on execution of this agreement.

Disputed Matters	has the meaning given in Schedule 5.
Disputing Action	in respect of a Tax Demand, any action to cause the Tax Demand to be withdrawn, reduced or postponed or to avoid, resist, object to, defend, appear against or compromise the Tax Demand and any judicial or administrative proceedings arising out of that action.
Duty	any stamp, transaction or registration duty or similar charge imposed by any Governmental Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them.
EBITDA	earnings before interest expense, tax, depreciation and amortisation, calculated in a manner that is consistent with the calculation of EBITDA in Attachment D.
Effective Time	11.59pm (Brisbane, Australia time) on the day preceding the Completion Date.
Employee	an employee of a Target Entity as at the date of this agreement who remains employed by a Target Entity immediately before Completion.
Employee Transaction Bonus	the total outstanding bonus amounts owing by the Target Group to any employee in connection with the Sale and all other related transactions contemplated by this agreement or in connection with any alternative transactions or arrangements (including an initial public offering).
Employee Transaction Bonus Amount	has the meaning given in clause 3.6.
Encumbrance	an interest or power: reserved in or over an interest in any asset; or created or otherwise arising in or over any interest in any asset under a security agreement, a bill of sale, mortgage, charge, lien, pledge, trust or power, by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes, but is not limited to: any agreement to grant or create any of the above; and a security interest within the meaning of section 12(1) of the PPSA, but does not include a Permitted Encumbrance.
Escrow Account	an interest-bearing controlled monies account opened in the name of the Escrow Agent as trustee for the Sellers and the Buyer.
Escrow Agent	the party, to be agreed between the Buyer and the Sellers, which will provide escrow services in accordance with the terms of the Escrow Agreement.
Escrow Agreement	an agreement to be entered into between the Escrow Agent, the Buyer and the Sellers on arm's length terms customary for the provision of escrow services as contemplated by this agreement.
Escrow Amount	8% of the Headline Purchase Price (the Initial Escrow Amount) or such other amount as remains in the Escrow Account from time to time including any interest credited to the Escrow Account but does not include the Estimated Adjustment Amount.
Escrow Termination Date	means the date which is 18 months after the Completion Date.
Estimated Adjustment Amount	is equal to the Estimated Working Capital minus the Target Working Capital.
Estimated Working Capital	is the estimated amount of working capital forecast at the Completion Date expressed as a positive or negative number (as applicable), as notified by the Sellers to the Buyer no later than five(5) Business Days before the Completion Date.
Expert	has the meaning given in Schedule 5.
Expert's Report	has the meaning given in Schedule 5.
Forward-looking Information	any forecast, model, budget estimate, projection, business plan, statement of opinion or statement of intention.
Fundamental Business Contract	the Westpac Merchant Documents; the Westpac Finance Documents; and the contracts which are material to the operation and profitability of the Target Group (including without limitation documents relating to the Business Intellectual Property and Business Software which are material to the operation and profitability of the Target Group).
Governmental Agency	any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.

Group Title and Capacity Warranties	the Warranties set out in Warranty 2 of Schedule 2.
Group Warranties	the Warranties other than the Seller Title and Capacity Warranties.
GST	goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.
GST Act	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) of Australia.
GST Law	has the same meaning as in the GST Act.
Headline Purchase Price	\$305 million.
Immediately Available Funds	cash or telegraphic or other electronic means of transfer of cleared funds into a bank account nominated in advance by the payee.
Indemnities	the: the Warranty Indemnity; and the Tax Indemnity, and each is an Indemnity .
Insolvency Event	in relation to an entity: the entity is unable to pay its debts as and when they fall due or has stopped or suspended, or threatened to stop or suspend, payment of all or a class of its debts; the entity goes, or proposes to go, into liquidation; the entity receives notice requiring, or applies for, deregistration; an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the entity; a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed, or threatened or expected to be appointed, over the whole or a substantial part of the undertaking or property of the entity; the holder of an Encumbrance takes possession of the whole or substantial part of the undertaking or property of the entity; a writ of execution is issued against the entity or any of the entity's assets; the entity proposes or takes any steps to implement a scheme or arrangement or other compromise with its creditors or any class of them; or the entity is declared or taken under applicable law to be insolvent or the entity's board of directors resolve that it is, or is likely to become insolvent. In relation to a person: a trustee or similar officer is appointed in respect of that person's assets; an order is made for the bankruptcy of that person or his or her estate or an event occurs that would give a court the right to make such an order; a moratorium of any debts of that person, a personal insolvency agreement or any other assignment, composition or arrangement with that person's creditors or any similar proceeding or arrangement by which the assets of that person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee is ordered or applied for; that person is declared or taken under any applicable law to be insolvent or unable to pay his or her debts or that person admits in writing that he or she is insolvent or unable to pay his or her debts; or any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made or issued against or in relation to any asset of that person.

Intellectual Property Rights	<p>all intellectual property and related rights, regardless of form, throughout the world, whether registered or unregistered, including any:</p> <p>patents, patent disclosures and related improvements;</p> <p>trademarks, service marks, trade dress, logos, product design, product names, product features, trade names, call letters, corporate names and second-level domain names, along with any associated goodwill;</p> <p>copyrights and copyrightable works, including without limitation, audiovisual works, collective works, computer programs, compilations, databases, derivative works, literary works, maskworks and sound recordings, inventions, circuit layouts, and analogous rights;</p> <p>trade secrets and confidential business information or information that is not readily known or ascertainable through property means, whether tangible or intangible, (including ideas, formulas, compositions, algorithms, inventions and discoveries (whether patentable or unpatentable and whether or not reduced to practice), know-how, research and development information, Software, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information); and</p> <p>registrations and applications to register any of the foregoing, if applicable;</p> <p>all other intellectual property rights as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of 14 July 1967 as amended from time to time, and the rights to sue with respect to past and future infringements of any of the above.</p>
Interest Rate	the daily 11.00am (Brisbane, Australia time) cash rate quoted on Reuters page BBSY.
ITAA 1997	the <i>Income Tax Assessment Act 1997</i> (Cth) of Australia.
Key Employees	the key employees of the Target Group, being Charlie Holland, Mark Healy, Michael Dempsey, Rob Baird and Sarah Page.
Key Leasehold Properties	the properties leased by any Target Entity under the Key Property Leases.
Key Property Leases	the real estate leases (and licences) listed in Schedule 8.
Loss	losses, liabilities, damages, costs, charges and expenses and includes Taxes, Duties and Tax Costs.
Material Adverse Effect	<p>an event, occurrence or change after the date of this agreement that has a material adverse effect on the financial condition, assets, liabilities, results of operation or profitability of the Target Group taken as a whole, other than those events, occurrences or changes that:</p> <p>are or arise as a direct result or consequence of the announcement and/or implementation of the transactions contemplated in this agreement; or</p> <p>are or arise as a result of general changes in economic, political, business, industry or market conditions except in each case, to the extent that that the consequences of such change have a materially greater material adverse effect on the Target Group or the Business (taken as a whole) than other companies carrying on business similar to that carried on by the Target Group,</p> <p>however a failure of the Target Group to meet internal operating projections or forecasts or published revenue or earnings predictions is not, in and of itself, a Material Adverse Effect.</p>
Material Authorisations	has the meaning given in Warranty 10.4.
Owned Software	Business Software excluding Third Party Software.
Other Encumbrances	the Encumbrances listed in Schedule 9 entitled 'Other Encumbrances'.

Permitted Encumbrance	<p>a lien or charge arising by operation of law;</p> <p>a retention of title arrangement in connection with the acquisition of goods in the ordinary course of business;</p> <p>bankers' liens, rights of set-off or other netting arrangements arising in respect of any transactional banking facilities or hedging transactions or where the relevant financial institution has not provided financial accommodation;</p> <p>any lien for:</p> <ul style="list-style-type: none"> rates, Taxes, Duties or fees of any kind payable to a Governmental Agency; or money payable for work performed by suppliers, mechanics, workmen, repairmen or employees and, in each case, arising in the ordinary course of business, <p>either not yet due or being contested in good faith by appropriate proceedings (where there are sufficient financial resources to pay the relevant amount if a legally binding determination is made that payment is required);</p> <p>any Encumbrance in relation to personal property (as defined in the PPSA and to which that Act applies) that is created or provided for by:</p> <ul style="list-style-type: none"> a transfer of an Account or Chattel Paper; a PPS Lease; or a Commercial Consignment, <p>that is not a security interest within the meaning of section 12(1) of the PPSA;</p> <p>the interest of the lessor or owner in respect of assets subject to a finance or capital lease, a hire-purchase agreement or a conditional sale agreement;</p> <p>any Encumbrance over the interest in, or assets of, a joint venture by the party to support the obligations of that party in respect of the joint venture;</p> <p>any of the Other Encumbrances;</p> <p>any other Encumbrance created in the ordinary course of business after the execution of this agreement, and, for the avoidance of doubt, does not include any Released Encumbrance.</p> <p>In this definition, Account, Chattel Paper, PPS Lease and Commercial Consignment have the meanings given in the PPSA.</p>
Person	means any natural person, Governmental Authority, corporation, general or limited partnership, limited liability company, joint venture, trust, association or unincorporated entity of any kind.
PPS Register	the register established under the PPSA.
PPSA	the <i>Personal Property Securities Act 2009</i> (Cth) of Australia.
Pre Completion Period	has the meaning given in clause 15.4(a)(1).
Product Disclosure Statement	The product disclosure statement issued by Ezidebit Pty Limited Version 14.4 effective August 2014, a copy of which is at Attachment C.
Purchase Price	<p>the Completion Payment;</p> <p>plus the Escrow Amount;</p> <p>plus the Actual Adjustment Amount payable under clause 7.2 (if any); and</p> <p>plus or minus (as applicable) any other adjustments to the Purchase Price made under this agreement.</p>
Related Entity	has the meaning given to that term in section 9 of the Corporations Act.
Related Seller	the Seller listed against the name of the Seller Guarantor in the table in Schedule 1.
Released Encumbrances	the Encumbrances listed in Schedule 9 entitled 'Released Encumbrances'.
Resolved Claim	<p>any Claim by the Buyer against a Seller under this document which:</p> <ul style="list-style-type: none"> has been resolved by the Buyer withdrawing the Claim; has been resolved by the Buyer and the Seller agreeing in writing the amount to be paid in settlement of the Claim; has been resolved by a court of competent jurisdiction making a final determination of the Claim and all rights of appeal having been exhausted or lapsed; or clause 11.6 applies to bar the Claim.
Respective Proportion	in relation to a Seller, the percentage listed against that Seller's name in Schedule 1 in the column headed 'Respective Proportion'.
Retention Agreement	a retention agreement between the Buyer and Charlie Holland, Mark Healy, Rob Baird and Sarah Page.
Restricted Business	any business which is the same or substantially similar to, or competitive with or likely to be competitive with, the Business as carried on at the Completion Date.
Restricted Persons	in respect of any Seller, that Seller and each Related Entity of that Seller.

Sale	the sale and purchase of the Shares in accordance with clause 2.
Seller Group	each of the Sellers and their Related Entities (other than the Target Entities), and Seller Group Member means any member of the Seller Group.
Seller Group Representative or Adviser	any representative or adviser of any Seller Group Member or the Sellers' Representatives and any Related Entities of such representative or adviser (or any current or former executive, officer, employee of or contractor to any of them).
Seller Insolvency Event	an Insolvency Event in relation to any of the Sellers.
Seller Title and Capacity Warranties	the Warranties set out in Warranty 1 of Schedule 2.
Sellers' Report	has the meaning given in Schedule 5.
Sellers' Representatives	Daniel Dempsey and Michael Dempsey, on behalf of all Sellers or such other persons as are appointed as Sellers' Representatives under clause 21.2.
Shares	all of the issued share capital in the Company, details of which are set out in Schedule 1.
Software	any and all: computer programs, libraries and middleware, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code; databases and compilations, including any and all data and collections of data, whether machine readable or otherwise; descriptions, flow-charts and other work product used to design, plan, organize and develop any of the above; and all programmer and user documentation, including user manuals and training materials, relating to any of the above.
Special Dividend	the special dividend declared by the Company on 12 September 2014 in the amount of \$8,788,050.
Special Dividend Payment Amount	has the meaning given in clause 3.6.
Specified Executive	each of Charlie Holland, Mark Healy, Michael Dempsey, Rob Baird and Sarah Page.
Straddle Period	has the meaning given in clause 15.4(a)(2).
Structure Diagram	the structure diagram for the Target Group as provided in Schedule 10.
Superannuation Guarantee Charge	a charge levied against an employer for failing to make the minimum level of contribution to superannuation funds on behalf of its employees prescribed by the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth) of Australia.
Target Entities	the Company; and each entity directly or indirectly Controlled by the Company, as listed in Schedule 10.
Target Entity Insolvency Event	an Insolvency Event in relation to any of the Target Entities.
Target Group	the corporate group comprising each of the Target Entities.
Target Working Capital	\$0
Tax	any tax, Duty, levy, charge, impost, fee, deduction, goods and services tax, VAT, compulsory loan or withholding, that is assessed, levied, imposed or collected by any Governmental Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above.
Tax Benefit	a benefit being: the amount of an allowable rebate, credit or refund for a Target Entity; an amount equal to an allowable deduction (including, but not limited to, amortisation and depreciation), relief or other allowance, for any income year for a Target Entity, multiplied by the applicable company tax rate at the time the benefit arises; or an amount that is properly excluded from assessable income, for any income year for a Target Entity, multiplied by the applicable company tax rate in the income year to which the deduction relates.
Tax Claim	any claim, demand, legal proceedings or cause of action arising from a breach of a Tax Warranty, or under the Tax Indemnity.
Tax Cost	all costs, and expenses incurred in: managing an inquiry; or conducting any Disputing Action in relation to a Tax Demand.

Tax Demand	a Demand or assessment from a Governmental Agency requiring the payment of any Tax for which the Seller may be liable under this agreement; any document received from a Governmental Agency administering any Tax assessing, imposing, claiming or indicating an intention to claim any Tax; a notice to a contributing member of a Consolidated Group given under section 721-15(5) or (5A) of the ITAA 1997; or lodgement of a Tax return or a request for an amendment of a lodged Tax return.
Tax Indemnity	the indemnity in clause 10.6.
Tax Invoice	includes any document or record treated by the Commissioner of Taxation as a tax invoice or as a document entitling a recipient to an input tax credit.
Tax Law	any law relating to Tax.
Tax Payor	has the meaning given in clause 13.3.
Tax Relief	any relief, allowance, exemption, exclusion, set-off, deduction, loss, rebate, refund, right to repayment or credit granted or available in respect of a Tax under any law.
Tax Warranty	Warranty 14.
Third Party	any person or entity (including a Governmental Agency) other than a Seller Group Member, a Buyer Group Member or a Target Entity.
Third Party Claim	any claim, Demand, legal proceedings or cause of action made or brought by a Third Party, other than a Tax Demand.
Third Party Intellectual Property	the Business Intellectual Property that is owned by a Third Party excluding Third Party Software.
Third Party Software	1 all Business Software licensed to a Target Entity by a Third Party under a Contract a copy of which has been provided in the Disclosure Materials and is listed in Schedule 7; 2 all commercial off the shelf software products licensed to a Target Entity by a Third Party; 3 all operating system software and middleware produced by a Third Party licensed to a Target Entity under a clickwrap or click through agreement and used by a Target Entity in accordance with the terms of that agreement.
Title and Capacity Warranties	the Seller Title and Capacity Warranties and the Group Title and Capacity Warranties.
Top Customer	the top customers of the Target Group as determined by total revenue and the top 4 CMS/integrated services partners, all of which are identified on Schedule 11, including those franchisees of the customer which have been notified by a Target Entity to Westpac under the terms of the Westpac Aggregator Master Merchant Business Solutions Card Acceptance (MSA) between Westpac Banking Corporation Ltd and Ezidebit Pty Limited dated 6 March 2009 as a 'sub-merchant'.
Transaction Costs	the total outstanding fees and other costs and expenses owing by a Target Entity before Completion for the corporate advisory, legal, accounting, financial and Tax services provided to any Target Entity in connection with the Sale and all other related transactions contemplated by this agreement or in connection with any alternative transactions or arrangements (including an initial public offering)
Transaction Costs Amount	has the meaning given in clause 3.6.
Trust	a trust constituted by a Trust Deed.
Trust Deed	each of the trust deeds establishing the following trusts: Dutch Investment Trust; The Welsh Management Trust; Pikinini No 1 Trust; Holland Superannuation Fund; Zenonos Discretionary Trust; Mora Mou Family Trust; Ritdan Finance Trust; and S Seven D Discretionary Trust.
Ultimate Holding Company	has the meaning in section 9 of the Corporations Act.
Unresolved Claim	Any Claim by the Buyer against a Seller under and in accordance with this document which is not a Resolved Claim.
Warranty Indemnity	the indemnity in clause 10.5.
Warranties	the warranties in Schedule 2.

Westpac Merchant Documents	Aggregator Master Merchant Business Solutions Card Acceptance between Westpac Banking Corporation Limited and Ezidebit Pty Limited dated 6 March 2009; Westpac Biller Agreement between Westpac Banking Corporation Limited and Ezidebit Pty Limited dated 12 May 2014; and Direct Entry Credit User In house Pack Agreement between Westpac Banking Corporation Limited and Ezidebit Pty Limited dated 26 June 2014.
Westpac Finance Documents	Business Finance Agreement between Westpac Banking Corporation Limited and Ezidebit Pty Limited dated 26 August 2014; Business Finance Agreement between Westpac Banking Corporation Limited and Ezidebit Pty Limited dated 26 August 2014; Business Finance Agreement between Westpac Banking Corporation Limited and Ezidebit (NZ) Pty Limited dated 26 August 2014; Business Finance Agreement between Westpac Banking Corporation Limited and Ezidebit (NZ) Pty Limited dated 26 August 2014; and Business Finance Agreement between Westpac Banking Corporation Limited and Regalcroft Pty Limited dated 26 August 2014.

1.2 Interpretation provisions

In this agreement:

- (a) Headings and words in bold type are for convenience and do not affect the interpretation of this agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) Words of any gender include all genders.
- (d) Other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning.
- (e) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency as well as an individual.
- (f) A reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this agreement.
- (g) A reference to any legislation or any industry standards includes all delegated legislation or standard made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (h) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (i) A reference to a party to a document includes that party's successors and permitted assignees.
- (j) A reference to an agreement other than this agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (k) A reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (l) No provision of this agreement will be construed adversely to a party because that party was responsible for the preparation of this agreement or that provision.
- (m) A reference to a body, other than a party to this agreement (including an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (n) If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
- (o) A reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (p) If an act prescribed under this agreement to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.
- (q) Unless otherwise stated, a reference to time is a reference to Brisbane time.
- (r) A reference to \$ is to the currency of Australia unless denominated otherwise.

1.3 **Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.4 **Inclusive expressions**

Specifying anything in this agreement after the words 'include' or 'for example' or similar expressions does not limit what else is included.

1.5 **Agreement components**

This agreement includes any schedule.

2 **Conditions for Completion**

2.1 **Conditions**

- a. Clause 3 does not become binding on the parties and is of no force or effect unless and until the following condition has been satisfied:
 - (1) the Treasurer of the Commonwealth of Australia has either:
 - (A) provided written notice which is unconditional or subject only to conditions reasonably acceptable to the Buyer that there is no objection under the Foreign Acquisitions and Takeovers Act 1975 (Cth) or Australian foreign investment policy to the proposed acquisition by the Buyer of the Shares; or
 - (B) become precluded from exercising any power to make an order under the Foreign Acquisitions and Takeovers Act 1975 (Cth) in relation to the proposed acquisition by the Buyer of the Shares.
- b. Completion is conditional on the following conditions having been satisfied or waived in accordance with clause 2.4:
 - (1) the Sellers provide to the Buyer written evidence that Westpac Banking Corporation Limited:
 - (A) has been made aware of the transactions contemplated by this agreement and the effect of those transaction on the Westpac Finance Documents; and
 - (B) waives any rights to rely on the transactions contemplated by this agreement as a 'Default Event' under any of the Westpac Finance Documents; and
 - (2) the Sellers provide to the Buyer written evidence that Mindbody Australia Pty Ltd ACN 161 549 006 has consented under the terms of the Integrated Services Agreement between it and Ezidebit Pty Ltd ACN 096 902 813 dated 1 June 2013 to the change of control of the Target Entities which will be effected by the transactions contemplated by the this agreement; and
 - (3) no Material Adverse Effect has occurred since 30 June 2014.

2.2 **Notice**

Each party must promptly notify the others in writing if it becomes aware that any condition in clause 2.1 has been satisfied or has become incapable of being satisfied.

2.3 **Reasonable endeavours**

- (a) The Buyer must use all reasonable endeavours to ensure that the condition(s) in clause 2.1(a) is satisfied as expeditiously as possible and in any event on or before the Cut Off Date.
- (b) Each party must use all reasonable endeavours to ensure that the condition(s) in clause 2.1(b)(1) is satisfied as expeditiously as possible and in any event on or before the Cut Off Date.
- (c) Each party must cooperate with each other party in approaching the relevant regulatory bodies for the purposes of satisfying the condition in clause 2.1(a).
- (d) The Seller must provide all information as may be reasonably requested by the Buyer in connection with any notices and applications for approval.

2.4 **Waiver**

- (a) The condition in clause 2.1(a) may not be waived.
- (b) The conditions in clause 2.1(b) are for the benefit of the Buyer and may only be waived by the Buyer.

2.5 **Cut Off Date**

A Party may, by not less than 2 Business Days' notice to the others, terminate this agreement at any time before Completion if:

- (a) the conditions in clause 2.1 are not satisfied, or waived in accordance with clause 2.4, by the Cut Off Date; or
- (b) the conditions in clause 2.1 become incapable of satisfaction or the parties agree that any of the conditions in clause 2.1 cannot be satisfied.

2.6 **No binding agreement for transfer**

For the avoidance of doubt, nothing in this agreement will cause a binding agreement for the transfer of shares to arise unless and until the condition in clause 2.1(a) has been satisfied and no person will obtain rights in relation to shares as a result of this agreement unless and until that condition has been satisfied.

2.7 **Material Adverse Effect condition**

Despite any other provision of this agreement but subject to prior waiver by the Buyer, the condition in clause 2.1(b)(3) ceases to have any effect and may not be relied upon by any party for any purpose under this agreement from the Completion Date.

3 **Sale and purchase**

3.1 **Shares**

On the Completion Date each of the Sellers must sell the Shares set out opposite the name of that Seller in Schedule 1, free and clear of all Encumbrances, and the Buyer must buy the Shares, for the relevant Seller's Respective Proportion of the Purchase Price, subject to this agreement.

3.2 **Associated Rights**

Subject to clause 4.3(a), each of the Sellers must sell the Shares set out opposite the name of that Seller in Schedule 1 to the Buyer together with all rights:

- (a) attached to them as at the date of this agreement; and
- (b) that accrue between the date of this agreement and Completion.

3.3 **Purchase Price**

- (a) The consideration for the sale of the Shares is the payment by the Buyer of the Purchase Price.
- (b) The Purchase Price will be paid as follows:
 - (1) the Completion Payment, payable by the Buyer on Completion in accordance with clause 3.4 and clause 6;
 - (2) the Actual Adjustment Amount, payable clause 7.2 (if any), following finalisation of the Completion Working Capital Statement in accordance with clauses 7.2 and 7.3;
 - (3) the Escrow Amount, payable by the Buyer into the Escrow Account in accordance with clause 8; and
 - (4) any other adjustments to the Purchase Price payable in accordance with this agreement.

3.4 **Respective Proportions**

The components of the Purchase Price referred to in clauses 3.3(b)(1) and 3.3(b)(2) must be paid by the Buyer to the Sellers in their Respective Proportions.

3.5 **Payment of the Completion Payment**

On Completion the Buyer must pay the Completion Payment to the Sellers in their Respective Proportions as notified by the Sellers' Representative to the Buyer in writing no later than two Business Days before Completion, in Immediately Available Funds without counter-claim, deduction or set-off.

3.6 **Payment of other amounts**

At Completion the Buyer must pay on behalf of the relevant Target Entities the following:

- (a) the Special Dividend Payment Amount in accordance with payment directions notified to the Buyer 2 Business Days prior to the Completion Date;
- (b) the amount of Transaction Costs (together the **Transaction Costs Amount**) in accordance with payment directions notified to the Buyer 2 Business Days prior to the Completion Date.

For the purpose of sub-clause 3.6(a), **Special Dividend Payment Amount** means the amount, if any, by which the Special Dividend exceeds the amount available from the Company's own resources including cash to pay the Special Dividend, as notified to the Buyer 2 Business Days prior to the Completion Date.

The Sellers agree that payments by the Company to the Sellers prior to the Completion Date on account of the Special Dividend together with payments made on the Completion Date on behalf of the Company under and in accordance with clause 3.6(a), fully satisfy and discharge the liability of the Company to the Sellers in respect of the

Special Dividend and the Sellers have no further Claim against the Company or the Buyer in respect of the Special Dividend.

At Completion, the Buyer must put the relevant Target Entity in funds to enable it to pay the Employee Transaction Bonuses (together the **Employee Transaction Bonus Amount**).

For the avoidance of doubt, the payments referred to above together with the Purchase Price payable for the sale of the Shares all form part of the Headline Purchase Price.

3.7 **Waiver of rights**

Each Seller irrevocably waives any pre-emptive or similar rights that it has or that may arise at any time before Completion in relation to the sale to the Buyer of the Shares held by each other Seller.

3.8 **Purchase obligations interdependent**

The obligation of the Buyer to buy any Shares under this clause 3 is conditional and interdependent on the completion by the Buyer of the purchase of all other Shares and the Buyer is not obliged to complete the purchase of any Shares unless it completes the purchase of all Shares simultaneously.

3.9 **Title and risk**

Title to and risk in the Shares passes to the Buyer on Completion.

4 **Period before Completion**

4.1 **Carrying on of business**

Subject to clause 4.3, between the date of this agreement and the earlier of Completion and termination of this agreement, the Seller must ensure that the business of the Target Entities is conducted in the ordinary course and, in particular, that no Target Entity:

- (a) distributes or returns any capital to its members;
- (b) buys back any of its shares;
- (c) pays any dividends or makes any other distributions of its profits or effects any recapitalization, reclassification, stock dividend, stock split or like change in its issued securities;
- (d) authorise for issuance, issue, sell, deliver or agree or commit to issue, sell or deliver:
 - (1) any shares, securities or capital stock of, or other equity or voting interest, in the Company; or
 - (2) any securities convertible into, exchangeable for, or evidencing the right to subscribe for or acquire either:
 - (A) any shares, securities or capital stock of, or other equity or voting interest in, the Company; or
 - (B) any securities convertible into, exchangeable for, or evidencing the right to subscribe for or acquire, any shares, securities or capital stock of, or other equity or voting interest in, that Target Entity;
- (e) alters its constitution;
- (f) sells, assigns, transfers or otherwise disposes of the Business Intellectual Property or any Business Software;
- (g) varies, terminates or fails to renew any of its contracts that are material to the Business or Material Authorisations, except in the ordinary course of business;
- (h) enters into any new individual contract or commitment requiring it to pay more than \$200,000 per annum for more than 2 years, other than by way of capital expenditure permitted under 4.1(n);
- (i) acquires any assets whose aggregate value exceeds \$1 million, other than assets acquired by way of capital expenditure permitted under 4.1(n);
- (j) engages any new permanent employee or amends the terms of employment of any permanent employee with a total annual remuneration in excess of \$200,000, except in accordance with current personnel practices;
- (k) grants any severance or termination benefit in excess of \$200,000 to any permanent employee, except in accordance with current personnel practices;
- (l) terminates or encourages the resignation of any Employee, except in accordance with current personnel practices or for good cause;
- (m) cancels any existing insurance policy in the name of or for the benefit of a Target Entity unless a replacement policy has been put in place;

- (n) undertakes any capital expenditure other than capital expenditure required in the ordinary and usual course of carrying out its business;
- (o) makes any loan to, or enters into any other material transaction with, any of its directors, officers, and employees;
- (p) makes any change in its accounting methods, principles or practices, except as required by concurrent changes in Accounting Standards;
- (q) cancels any debt owed to or claims held by any Target Entity other than in the ordinary course of business;
- (r) prepares, files or amends any Tax return inconsistent with past practice or, on any such Tax return, takes any position, makes any election, or adopts any method that is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax returns in prior periods; or
- (s) enters into any Contract or renews any Contract containing, or otherwise subjecting the Buyer to, any non-competition, non-solicitation, exclusivity or other material restrictions on the business of any Target Entity or the Buyer.

4.2 **Control Accounts**

The Sellers must procure that between the date of this agreement and the earlier of Completion and termination of this agreement the Control Accounts are operated in the ordinary course of business and in a manner consistent with the operation of that account in the 12 months preceding the date of this agreement.

4.3 **Permitted acts**

Nothing in clause 4.1 restricts the Seller or any Target Entity from doing anything:

- (a) **(Dividends)**: that is contemplated by and carried out under the terms of clause 4.4;
- (b) **(novation of adviser mandates)**: to novate to the Sellers (or their agent or representative) the benefit of any advisor mandates relating to the transactions contemplated by this agreement;
- (c) **(emergencies)**: to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
- (d) **(legal or contractual obligations)**: that is necessary for any Target Entity to meet its legal or contractual obligations;
- (e) **(ordinary course of business)**: in the ordinary and usual course of carrying out its business; or
- (f) **(approved actions)**: that is approved in writing by the Buyer, such approval not to be unreasonably withheld or delayed.

4.4 **Declaration and payment of Special Dividend**

- (a) The Sellers warrant to the Buyer that as at the date of this agreement the Target Group had sufficient retained earnings and franking credits available to declare the Special Dividend.
- (b) The Sellers agree that:
 - (1) the amount of the franking credit allocated to the Special Dividend paid by the Company (if any) will be up to the maximum franking credit available; and
 - (2) the Company has not franked the Special Dividend paid by the Company (if any) such that it would cause the Company's franking account to be in deficit immediately after the dividend is paid.
- (c) The Sellers agree that the declaration and payment of any Special Dividend complies with the requirements of section 254T of the Corporations Act.

4.5 **Access to Business before Completion**

- (a) Subject to clause 4.5(b), during the period between the date of this agreement up to the earlier of Completion and termination of this agreement, the Sellers must ensure that the Buyer is given reasonable access during normal business hours, to the premises and senior management of the Target Entities for the purpose of ensuring a smooth integration of the Target Entities with the Buyer Group following Completion, provided that such access is at all times in the presence of a representative of the Sellers if required by the Sellers.
- (b) The Buyer must provide reasonable notice of any request for access pursuant to clause 4.5(a) (being not less than 2 Business Days) and ensure that any persons provided with the access referred to in clause 4.5(a) comply with the reasonable requirements of the Target Entities or any relevant Third Party in respect of the access and do not interfere with the Business or operations of the Target Entities.

(c) Nothing in this clause 4.4 gives the Buyer any rights as to the decision making of the Target Entities prior to Completion.

4.6 **D&O insurance**

The Buyer must put in place insurance cover effective from Completion in respect of the officers of each Target Entity as at immediately before Completion on terms materially no less favourable than the terms of any existing insurance cover in respect of such officers. The Buyer must ensure that the insurance cover for each such officer remains in place until at least 7 years after the officer has resigned from the Target Entity and that the insurance cover is not cancellable.

5 **Termination**

5.1 **Termination by the Buyer**

The Buyer may terminate this agreement at any time before Completion by notice in writing to the Sellers:

- (a) if a Target Entity Insolvency Event occurs;
- (b) if a Seller Insolvency Event occurs;
- (c) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of any Target Entity; or
- (d) if the Sellers are in breach of any of clauses 4.1(a) to 4.1(g).

5.2 **Termination by the Seller**

The Sellers may terminate this agreement at any time before Completion by notice in writing to the Buyer if a Buyer Insolvency Event occurs.

5.3 **Effect of termination**

If this agreement is terminated under this clause 5 or clause 6.3(b), then:

- (a) each party is released from its obligations to further perform its obligations under this agreement, except those expressed to survive termination;
- (b) each party retains the rights it has against the other in respect of any breach of this agreement occurring before termination;
- (c) the Buyer must return to the Sellers all documents and other materials obtained from the Sellers in accordance with the terms of the Confidentiality Agreement; and
- (d) the rights and obligations of each party under each of the following clauses and schedules will continue independently from the other obligations of the parties and survive termination of this agreement:
 - (1) clause 1 (Definitions, interpretation and agreement components);
 - (2) clause 5 (Termination);
 - (3) clause 16 (Confidentiality and announcements);
 - (4) clause 17.2(a) (Duties, costs and expenses);
 - (5) clause 18 (GST); and
 - (6) clause 23 (General).

5.4 **No other right to terminate or rescind**

No party may terminate or rescind this agreement (including on the grounds of any breach of Warranty or misrepresentation that occurs or becomes apparent before Completion) except as permitted under this clause 5 or clause 6.3(b).

6 **Completion**

6.1 **Time and Place**

Subject to clause 5, Completion must take place at the office of DLA Piper Australia at Level 28 Waterfront Place, 1 Eagle Street Brisbane, Queensland at 11 am (Brisbane time) on the Completion Date, or at such other place, time and date as the Sellers and Buyer agree.

6.2 **Completion**

- (a) On or before Completion, each party must carry out the Completion Steps referable to it in accordance with Schedule 4.
- (b) Completion is taken to have occurred when each party has performed all its obligations under this clause 6 and Schedule 4.

6.3 **Notice to complete**

- (a) If a party (**Defaulting Party**) fails to satisfy its obligations under clause 6.2 and Schedule 4 on the day and at the place and time for Completion determined under clause 6.1, then:
- (1) the Sellers' Representatives (where the Defaulting Party is the Buyer); or
 - (2) the Buyer (where the Defaulting Party is one or more of the Sellers),
- (in either case the **Notifying Party**), may give the Buyer's or Sellers' Representatives (as applicable) a notice requiring the Defaulting Party to satisfy those obligations within a period of 5 Business Days from the date of the notice and declaring time to be of the essence.
- (b) If the Defaulting Party fails to satisfy those obligations within those 5 Business Days the Notifying Party may, without limitation to any other rights it may have, terminate this agreement by giving written notice to the Buyer's or Sellers' Representatives (as applicable).

6.4 **Completion simultaneous**

- (a) Subject to clause 6.4(b), the actions to take place as contemplated by this clause 6 and Schedule 4 are interdependent and must take place, as nearly as possible, simultaneously. If one action does not take place, then without prejudice to any rights available to any party as a consequence:
- (1) there is no obligation on any party to undertake or perform any of the other actions;
 - (2) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
 - (3) the Sellers and the Buyer must each return to the other all documents delivered to them under clause 6.2(a) and Schedule 4 and must each repay to the other all payments received by it under clause 6.2(a) and Schedule 4, without prejudice to any other rights any party may have in respect of that failure.
- (b) The Buyer may, in its sole discretion, waive any or all of the actions that the Sellers are required to perform under clause 2.1 of Schedule 4 and the Sellers may, in their sole discretion, waive any or all of the actions that the Buyer is required to perform under clause 2.2 of Schedule 4.

7 **Completion Working Capital Statement**

7.1 **Preparation of Completion Working Capital Statement**

Following Completion, the Sellers and the Buyer must procure that the Completion Working Capital Statement is prepared and finalised in accordance with Schedule 5.

7.2 **Purchase Price adjustments following Completion Working Capital Statement**

If the Actual Adjustment Amount:

- (a) is a positive number, the Buyer must pay the Actual Adjustment Amount to the Sellers in their Respective Proportions, as an adjustment to the Purchase Price in favour of the Sellers;
- (b) is a negative number, the Sellers must pay the Actual Adjustment Amount to the Buyer in their Respective Proportions, as an adjustment to the Purchase Price in favour of the Buyer; or
- (c) is equal to zero, no adjustment to the Purchase Price will be made under this clause 7.2.

7.3 **Payment of Actual Adjustment Amount**

- (a) A party required to make a payment to another party under this clause 7 must make the payment in Immediately Available Funds without counter-claim, deduction or set-off within 5 Business Days after the finalisation of the Completion Working Capital Statement or Expert's Report as applicable.
- (b) Payment of the Actual Adjustment Amount in accordance with clause 7.2(b) must be made from the Escrow Account, and the parties must instruct the Escrow Agent to make any payment required by clause 7.2(b) from the Escrow Account.
- (c) If the funds in the Escrow Account are insufficient to meet any obligation for payment of the Actual Adjustment Amount required under clause 7.2(b), the Sellers are not relieved of their obligation to pay the Actual Adjustment Amount as a result of clause 7.3(b), and must pay the difference between the Actual Adjustment Amount and the amount paid under clause 7.3(b) in accordance with clause 7.3(a).

8 **Escrow Account**

8.1 **Establishment of Escrow Account**

On or before Completion:

- (a) the Buyer must deliver to the Sellers and the Escrow Agent a counterpart of the Escrow Agreement duly executed by the Buyer;
- (b) the Sellers must deliver to the Buyer and the Escrow Agent a counterpart of the Escrow Agreement duly executed by each Seller; and
- (c) the Buyer and the Sellers must procure that the Escrow Agent delivers to the Buyer and the Sellers a counterpart of the Escrow Agreement duly executed by the Escrow Agent and must take all other steps necessary to procure that the Escrow Account is opened.

8.2 **Operation of Escrow Account**

The Buyer and the Sellers must promptly give or join in giving all instructions and take all other steps as may be necessary to procure that the Escrow Account is operated, and the Escrow Amount (including interest accruing on it) is applied, in accordance with this clause 8 and clause 7.3.

8.3 **Payments in respect of Resolved Claims before Escrow Termination Date**

If before the Escrow Termination Date a payment becomes due to the Buyer in respect of any Resolved Claim then within 5 Business Days after such payment becomes due an amount equal to the lower of that amount and the Escrow Amount must be paid out of the Escrow Account to the Buyer.

8.4 **No Unresolved Claims on Escrow Termination Date**

If there are no Unresolved Claims outstanding on the Escrow Termination Date, the Escrow Amount must be paid to the Sellers on the date that is 5 Business Days after the Escrow Termination Date and for this purpose the amount payable to each Seller is the Escrow Amount multiplied by the Respective Proportion for that Seller.

8.5 **Unresolved Claims on Escrow Termination Date**

If any Unresolved Claim is outstanding on the Escrow Termination Date:

- (a) an amount equal to the lower of:
 - (1) the amount of all Unresolved Claims then outstanding; and
 - (2) the Escrow Amount,
 must be retained in the Escrow Account and dealt with in accordance with clause 8.5(c);
- (b) the balance, if any, of the Escrow Amount must be released to the Sellers on the date that is 5 Business Days after the Escrow Termination Date and for this purpose the amount payable to each Seller is the aggregate amount to be released from the Escrow Account multiplied by the respective Proportion for that Seller;
- (c) if that Unresolved Claim subsequently becomes a Resolved Claim and a payment becomes due to the Buyer in respect of that Resolved Claim, then:
 - (1) within 5 Business Days after such payment becomes due an amount equal to the lower of that amount and the Escrow Amount must be paid out of the Escrow Account to the Buyer; and
 - (2) after such payment has been made the provisions of clauses 8.5(a) and 8.5(b) will be applied as if references to the Escrow Termination Date were to the date on which that payment was made; and
- (d) if that Unresolved Claim subsequently becomes a Resolved Claim and no payment is due to the Buyer in respect of that Resolved Claim then the provisions of clauses 8.5(a) and 8.5(b) will immediately be applied as if references to the Escrow Termination Date were to the date on which that Unresolved Claim became a Resolved Claim.

8.6 **Interest**

Each payment out of the Escrow Account must be paid together with all interest accrued on the amount of the payment from the Completion Date until the date of payment.

9 **Restraint**

9.1 **Non competition**

Each Restricted Person must not and must procure that their Related Entities do not:

- (a) carry on any Restricted Business as principal or on its own account or as agent for any other person;
- (b) have any direct or indirect financial interest in any Restricted Business including as shareholder, member, unit holder, beneficiary, partner, guarantor, lender or financier; or
- (c) provide services in relation to any Restricted Business including as director, partner, or employee of, or adviser or consultant to, any person referred to in paragraphs (a) or (b).

9.2 **Non solicitation**

Each Restricted Person must not and must procure that their Related Entities do not

- (a) approach any person who is at Completion or was at any time during the 2 year period before Completion a customer (including any sub-merchants or persons that receive the benefit of the services supplied by the Company) of a Target Entity for the purpose of obtaining that person as a customer for goods or services of the type provided by a Target Entity at Completion;
- (b) induce or encourage any person who was at any time during the 12 month period before Completion an employee of a Target Entity to leave the employment of that Target Entity; or
- (c) interfere with the relationship between a Target Entity and any of its customers, employees or suppliers.

9.3 **Restraint period**

The undertakings in clauses 9.1 and 9.2 are given for each of the periods starting on the Completion Date and ending:

- (a) on the date that is two years after the Completion Date;
- (b) on the date that is one year after the Completion Date;
- (c) on the date that is six months after the Completion Date.

9.4 **Restraint area**

The undertakings in clause 9.1 apply only if the Restricted Business in relation to which the activity prohibited by clause 9.1 occurs is within:

- (a) Australia and New Zealand; or
- (b) the States of Victoria, New South Wales and Queensland.

9.5 **Separate restrictions**

The parties agree that:

- (a) clauses 9.1, 9.3 and 9.4 have effect together as if they consisted of separate restrictions, each resulting from combining an undertaking in clause 9.1 with a period in clause 9.3 and an area in clause 9.4, and each being severable from each other restriction;
- (b) clauses 9.2 and 9.3 have effect together as if they consisted of separate restrictions, each resulting from combining an undertaking in clause 9.2 with a period in clause 9.3 and each being severable from each other restriction; and
- (c) if any of those restrictions is invalid or otherwise unenforceable for any reason, the invalidity or unenforceability does not affect the validity or enforceability of any of the other restrictions.

9.6 **Exceptions**

Clauses 9.1 and 9.2 do not prevent any Restricted Person from:

- (a) holding securities in any listed corporation or unit trust which in aggregate carry not more than 5% of the votes which could be cast at a general meeting of that corporation or a meeting of holders of units in that unit trust; or
- (b) advertising employment vacancies in any newspaper, website or other publication or through a recruitment agency (except where the recruitment agency targets employees of any Target Entity) and interviewing and negotiating with any person responding to such advertisement.

9.7 **Assignment**

Notwithstanding any other provision of this agreement, the Buyer is entitled to assign the benefit of this clause 9 to any purchaser of the Shares or the shares of any Target Entity or the Business.

9.8 **Acknowledgement**

The Sellers acknowledge that all the prohibitions and restrictions in this clause 9 are reasonable in the circumstances and necessary to protect the goodwill of the Business.

9.9 **Proceedings**

The Seller acknowledge and agrees that damages alone would not be adequate to compensate the Buyer for any breach of this clause 9 and agree that:

- (a) without limiting the relief that the Buyer is entitled to seek, the Buyer may seek an injunction if a Seller is in breach or threatens to breach, or if the Buyer reasonably believes that a Seller will breach the provisions of this clause 9; and
- (b) no Seller will make any submission or contention in any proceeding at which the Buyer seeks an injunction in relation to any breach, or any alleged, threatened or apprehended breach, of this

clause 9 to the effect that granting an injunction is not appropriate because the payment of damages alone would be adequate to compensate the Buyer.

10 Warranties and Indemnities

10.1 Warranties by the Sellers

Subject to the qualifications and limitations in clause 11:

- (a) each of the Sellers severally warrants to the Buyer, in respect of itself and the Shares held by it only, that each of the Seller Title and Capacity Warranties is true and accurate on its terms on the date of this agreement and immediately before Completion; and
- (b) the Sellers jointly and severally warrant to the Buyer that each of the Group Warranties is true and accurate on:
 - (1) in respect of each Group Warranty that is expressed to be given on a particular date, that date; and
 - (2) in respect of each other Group Warranty, the date of this agreement and immediately before Completion.

10.2 Basis of Sellers' liability

The Buyer acknowledges that notwithstanding any other provision of this agreement:

- (a) each Seller gives each Seller Title and Capacity Warranty in respect of that Seller only and not any other Sellers;
- (b) no Seller is liable for any Claim arising out of a breach by another Seller of any Seller Title and Capacity Warranty; and
- (c) the Sellers are jointly and severally liable for any Claim made in relation to the Tax Indemnity up to an amount equal to the Escrow Amount and thereafter only in their Respective Proportions.

10.3 Independent Warranties

Each of the Warranties is to be construed independently of the others and is not limited by reference to any other Warranty.

10.4 Reliance

Each of the Sellers acknowledges that the Buyer has entered into this agreement and will complete this agreement in reliance on the Warranties.

10.5 Indemnity for breach of Seller Title and Capacity Warranty

The Sellers indemnify the Buyer against any Loss suffered or incurred by the Buyer as a result of a breach of a Seller Title and Capacity Warranty, except to the extent that the Seller Title and Capacity Warranty or the Seller's liability for the Loss are limited or qualified under clause 10.1, clause 10.2 or clause 11, and this will be the sole remedy of the Buyer in respect of any such breach.

10.6 Tax indemnity

- (a) The Sellers indemnify the Buyer against, and must pay the Buyer the amount of, any:
 - (1) Tax payable by a Target Entity as a result of a Tax Demand to the extent that Tax relates to any period, or part period, up to Completion less any Tax Benefit for the relevant Target Entity that results from the Tax Demand; and
 - (2) Tax Costs incurred by or on behalf of a Target Entity to the extent those Tax Costs arise from or relate to any of the matters for which the Sellers may be liable under clause 10.6(a)(1), less any Tax Benefit for the relevant Target Entity that results from those Tax Costs.except to the extent that the Sellers' liability for the Tax is limited or qualified under clauses 11.5, 11.6, 11.7, 11.8, 11.9, 11.11, 11.11 or 11.13 or has been included as (or otherwise taken into account of or reflected in) a provision, allowance, reserve or accrual in the Accounts or the Completion Working Capital Statement, and this will be the sole remedy of the Buyer in respect of any such Tax or Tax Costs.
- (b) the indemnity in clause 10.6(a) is not affected by any of the Warranties set out in Section 14 of Schedule 2 and to the extent that there is any inconsistency between those Warranties and the indemnity in clause 10.6(a), the indemnity prevails.

10.7 Refunds by Buyer

If:

- (a) following payment by the Sellers of an amount under clause **10.6** for a Tax Claim, all or part of the Tax Claim amount is refunded either in cash or by credit to the Buyer, a Buyer Group Member or a Target Entity (including, but not limited to, any amount or credit received following a successful objection or appeal); or
- (b) the Buyer, a Buyer Group Member or a Target Entity receives a refund (other than the Tax Refund) either in cash or by credit which relates to an act or omission of, or occurrence affecting, a Target Entity before the Completion Date,

then the Buyer must (or procure that the relevant Buyer Group Member or Target Entity) immediately pay to the Sellers, in their Respective Proportions:

- (c) in the case of **10.7(b)**, an amount equal to so much of the refund to the extent that it has not been taken into account in clause **10.6**; and
- (d) an amount equal to any interest paid or credited to a Target Entity which is referable to the amount referred to in this clause **10.7**.

11 Qualifications and limitations on Claims

11.1 Disclosure

- (a) The Buyer acknowledges and agrees that the Sellers have disclosed or are deemed to have disclosed against the Warranties, and the Buyer is aware of and will be treated as having actual knowledge of, all facts, matters and circumstances that:
 - (1) are provided for or described in this agreement;
 - (2) are fairly disclosed in the information contained in the Disclosure Materials;
 - (3) as at 10 Business Days prior to the date of this agreement, are or would be disclosed by a search against the names of the Target Entities of the records available for public inspection maintained by:
 - (A) ASIC at www.asic.gov.au;
 - (B) Companies House (United Kingdom) at www.companieshouse.gov.uk;
 - (C) Companies Office (New Zealand) at <http://www.business.govt.nz/companies>;
 - (D) the High Court, Federal Court, the Supreme Courts of any Australian State or Territory;
 - (E) Land and Property Information, New South Wales; the Victoria Land Registry, Victoria; the Queensland Land Registry, Queensland;
 - (F) IP Australia on the following databases:
 - (i) for trade marks ("ATMOSS"): http://pericles.ipaustralia.gov.au/atmoss/falcon.application_start;
 - (ii) for patents ("AusPat"): <http://www.ipaustralia.gov.au/auspat/index.htm>; and
 - (iii) for designs ("ADDS"): http://pericles.ipaustralia.gov.au/adds2/adds.adds_simple_search.paint_simple_search.
- (b) The Group Warranties are given subject to the disclosures described in clause 11.1(a). The Sellers will have no liability under the Group Warranties to the extent that disclosure is made against the Warranties under this clause 11.1.
- (c) The Buyer must not make a Claim, and the Sellers will not be in breach of a Group Warranty, if the facts, matters or circumstances giving rise to such Claim are disclosed under clause 11.1(a).
- (d) This clause 11.1 does not apply to the Seller Title and Capacity Warranties.
- (e) The Buyer acknowledges and agrees that none of the Seller Group, the Sellers' Representatives nor any Seller Group Representative or Adviser:
 - (1) accepts any duty of care in relation to the Buyer in respect of any disclosure or the provision of any information; nor
 - (2) to the maximum extent permitted by law, is liable to the Buyer other than under this agreement if, for whatever reason, any disclosure or information is or becomes inaccurate, incomplete or misleading in any way.

11.2 Fair Disclosure

For the purposes of the Warranties, a matter is "fairly disclosed" if the matter is disclosed in sufficient detail so as to enable a reasonable purchaser of the Shares, experienced in transactions of the nature of the Sale and familiar with the operation of businesses similar to the Business, to fairly assess or identify the nature, import and significance of the matter.

11.3 Awareness

Where a Warranty is given 'to the best of the Sellers' knowledge', or 'so far as the Sellers' are aware' or with a similar qualification as to the Sellers' awareness or knowledge, the Sellers' awareness is limited to those facts, matters or circumstances of which a Specified Executive is actually aware as at the date of this agreement or would be aware of the fact, matter or circumstance if that Specified Executive had made reasonable enquiries of the persons and records likely to be relevant to the accuracy of the Warranty having regard to the Specified Executives position and circumstances.

11.4 Acknowledgements

- (a) For the purpose of and in relation to or in connection with clause 11.10, the Buyer and the Buyer's Guarantor acknowledge to the Sellers that:
- (1) at no time has any Seller Group Member or any person on any of their behalf, made or given and no Buyer Group Member has relied on, any representation, warranty, promise or undertaking in respect of the future financial performance or prospects of the Target Entities, except those expressly set out in this agreement (including in the Warranties) and in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with this agreement are those pursuant to this agreement and no party has any other right or remedy (whether by way of a claim for contribution or otherwise) in tort (including negligence) or for misrepresentation (whether negligent or otherwise, and whether made prior to, or in, this agreement);
 - (2) they have not relied on anything other than the warranties given and the statements made in this agreement (including the Warranties) in agreeing to buy the Shares and, in particular, no representations, warranties, promises, undertakings, statements or conduct have:
 - (A) induced or influenced the Buyer or the Buyer's Guarantor to enter into, or agree to any terms or conditions of, this agreement;
 - (B) been relied on in any way as being accurate by a Buyer Group Member or the Buyer's Guarantor;
 - (C) been warranted to a Buyer Group Member as being true; or
 - (D) been taken into account by the Buyer or the Buyer's Guarantor as being important to its decision to enter into, or agree to any or all of the terms of, this agreement,except those expressly set out in this agreement (including in the Warranties);
 - (3) they have entered into this agreement after satisfactory inspection and investigation of the affairs of the Target Entities, including a review of the Disclosure Materials;
 - (4) they have made, and they rely upon, their own searches, investigations, enquiries and evaluations in respect of the Target Entities and the Business and their own evaluation of the Disclosure Materials;
 - (5) they have had the benefit of independent legal, tax and accounting advice relating to the proposed purchase of the Shares by the Buyer and the terms of this agreement;
 - (6) no Seller Group Member nor any Seller Group Representative or Adviser are under any obligation to provide any Buyer Group Member or its representatives or advisers with any information on the future financial performance or prospects of the Target Entities;
 - (7) none of the Sellers has made any warranty (including in the Warranties) as to the accuracy of any forecast, model, budget estimate, projection, business plan, statement of opinion or statement of intention (**Forward-looking Information**) provided to the Buyer, the Buyer's Guarantor or their representatives or advisers before the date of this agreement;
 - (8) they are not entering into this agreement in reliance on, and they may not rely on, any Forward-looking Information or any warranty, representation or other statement made or purporting to be made by or on behalf of any of the Sellers, other than the Warranties; and
 - (9) no Seller Group Member nor any Seller Group Representative or Adviser is liable under any Claim arising out of or relating to any Forward-looking Information.

- (b) The acknowledgments in clause 11.4(a) are not intended and must not be construed as qualifying the subject matter of the Warranties.
- (c) The Buyer acknowledges that the Sellers' have agreed to sell the Shares and enter into this agreement relying on the representations in this clause 11.4 and would not be prepared to sell the Shares on any other basis.

11.5 **Maximum and minimum amounts**

- (a) The Sellers are not liable under a Claim (other than a Claim under clause 7, arising under a Seller Title and Capacity Warranty or a Tax Claim) unless the amount finally agreed or adjudicated to be payable:
 - (1) in respect of that Claim exceeds \$400,000; and
 - (2) either alone or together with the amount finally agreed or adjudicated to be payable in respect of other Claims that satisfy clause 11.5(a)(1) exceeds \$2 million,in which event, subject to clauses 11.5(b), 11.5(c) and 11.5(d), the Sellers are liable for so much of that amount as exceeds the thresholds in (2) above.
- (b) The maximum amount that the Sellers (in aggregate) are required to pay in respect of all Claims (other than a Claim arising under clause 7.3(c), a Seller Title and Capacity Warranty or a Tax Claim) whenever made is limited to the Escrow Amount;
- (c) The maximum amount that the Sellers (in aggregate) are required to pay in respect of all Claims arising under a Seller Title and Capacity Warranties or a Tax Claim is the Headline Purchase Price; and
- (d) For the purposes of clause 11.5(a)(1):
 - (1) Claims arising out of separate sets of facts, matters or circumstances will not be treated as one Claim, even if each set of facts, matters or circumstances may be a breach of the same Warranty; and
 - (2) Claims of the same or similar nature arising out of the same or similar facts, matters and circumstances will be treated as one Claim.

11.6 **Time limits**

The Sellers are not liable under a Claim if:

- (a) the Buyer does not notify the Sellers' Representatives of the Claim in accordance with clause 13.1(a) before:
 - (1) 5 years and 6 months after Completion in the case of a Tax Claim; or
 - (2) 18 months after Completion in all other cases; and
- (b) within 6 months (or such longer period as may be agreed) of the date the Buyer notifies the Sellers' Representatives of the Claim under clause 13.1(a):
 - (1) the Claim has not been agreed, compromised or settled; or
 - (2) the Buyer has not properly issued and validly served legal proceedings against the Sellers in respect of the Claim.

For the avoidance of doubt the Sellers liability is not limited in relation to a Claim where the Buyer has properly issued and validly served legal proceedings against the Sellers in respect of the Claim within time required by clause 11.6(b).

11.7 **Disposal of Business**

The Sellers are not liable under a Claim if:

- (a) the Target Entities have ceased to be Controlled (either directly or indirectly), or the Target Entity in respect of which the Claim arises has ceased to be Controlled (either directly or indirectly), by either the Buyer or the Buyer's Guarantor (or both); or
- (b) all or a majority of the Business, or of the assets of the Target Entity in respect of which the Claim arises, has or have ceased to be owned by either the Buyer or the Buyer's Guarantor (or both),

other than:

- (c) as a result of a control transaction in relation to or a change in control of the Buyer's Ultimate Holding Company; or

- (d) a restructure of the Buyer Group which does not result in a change to the Buyer's Ultimate Holding Company.

11.8 **Recovery under other rights and reimbursement**

- (a) The Sellers are not liable under a Claim arising from a breach of Warranty or under an Indemnity for any Loss that a Buyer Group Member or a Target Entity has recovered under any means, from another source whether by way of contract, indemnity or otherwise (including under a policy of insurance or from a Governmental Agency) in respect of any fact, matter or circumstance giving rise to that Claim.
- (b) If, after the Seller has made a payment in respect of a Claim arising from a breach of Warranty, a Buyer Group Member or a Target Entity recovers or is compensated for by any other means, any Loss that gave rise to the Claim, the Buyer must immediately pay to the Seller as an increase in the Purchase Price, the lesser of:
 - (1) the amount of the Loss that was recovered or compensated for; and
 - (2) the amount paid by the Seller in respect of the Claim.

11.9 **Exclusions**

- (a) The Buyer and the Buyer's Guarantor acknowledge and agree that to the maximum extent permitted by law, the Buyer and the Buyer's Guarantor agree not to make and waive any right they may have to make any Claim against any Seller under any provision of Part 7.10 of the Corporations Act, the *Competition and Consumer Act 2010* (Cth) (including sections 18, 20, 21, 22 and 29 of Schedule 2 (Australian Consumer Law) of that Act), Part 2 Division 2 of the *Australian Securities and Investments Commission Act 2001* (Cth) or any similar provisions in the legislation of any State or Territory or the Commonwealth of Australia.
- (b) To the maximum extent permitted by law, each of the parties undertake to each other party and to any person who was at the date of this agreement a current or former director, officer or employee of any Seller, of any Seller Group Member or of any Target Entity (each such person an **Officer**) that neither it nor any of its Affiliates will at any time make any Claim or Demand against any Officer in respect of any matter arising in connection with this agreement or any transaction contemplated by this agreement, including in respect of any breach of Warranty or any Claim under an Indemnity, provided that this clause does not prevent a Claim or Demand which relates solely to conduct of the relevant Officer which amounts to fraud.

11.10 **General limitations**

The Sellers are not liable under a Claim for any Loss or amount described below to the extent that that Loss or amount:

- (a) **(provisions in Accounts)**: has been included as (or otherwise taken account of or reflected in) a provision, allowance, reserve or accrual in the Accounts or the Completion Working Capital Statement;
- (b) **(pre Completion actions)**: arises from an act or omission by or on behalf of a Seller Group Member or a Target Entity before Completion that was done or made:
 - (1) with the written consent of the Buyer; or
 - (2) at the written direction or instruction of the Buyer;
- (c) **(post Completion conduct)**: arises from, or is increased as a result of, anything done or not done after Completion by or on behalf of a Buyer Group Member or a Target Entity other than:
 - (1) to satisfy an obligation of the Buyer under this agreement; or
 - (2) to satisfy an obligation under any legislation, regulations or judicial or governmental requirement in force as at Completion;
- (d) **(promoted claims)**: arises from a Third Party Claim that is attributable to anything done or not done after Completion by or on behalf of a Buyer Group Member or a Target Entity that caused the Third Party Claim to be made;
- (e) **(breach of law or contract)**: could only have been avoided by a Seller Group Member breaching its obligations at law or under this agreement;
- (f) **(change of law or interpretation)**: arises from:
 - (1) the enactment or amendment of any legislation or regulations;
 - (2) a change in the judicial or administrative interpretation of the law; or
 - (3) a change in the practice or policy of any Governmental Agency,after the date of this agreement, including legislation, regulations, amendments, interpretation, practice or policy that has a retrospective effect;

- (g) **(consequential loss):**
 - (1) subject to (2), is punitive damages (whether direct or indirect), special, loss or damage, indirect loss or damage or consequential loss or damage including loss of profits;
 - (2) the following losses are direct Losses (not indirect or consequential losses) in respect of which the Buyer is entitled to recover:
 - (A) loss of profits of the Target Group;
 - (B) diminution in the value of the assets of the Target Group (including goodwill); and
 - (C) diminution in the value of the Business,

where such losses result in the diminution of the value of the Shares.
- (h) **(change in accounting policy):** would not have arisen but for a change after Completion in any accounting policy or practice of a Buyer Group Member or a Target Entity that applied before Completion, except as required to comply with change in the law or the Accounting Standards after Completion;
- (i) **(mitigation):** arises from, or to the extent it is increased as a result of, a failure by the Buyer or any of its Related Entities to take reasonable steps to mitigate that Loss;
- (j) **(remediable loss):** is remediable, provided it is remedied to the satisfaction of the Buyer, acting reasonably, within 30 Business Days after the Sellers' Representatives receive written notice of the Claim in accordance with clause 13.1(a); or
- (k) **(compliance)** arises from or is increased by the Buyer's failure to comply in any material respect with clause 13 in respect of a Claim.

11.11 Other limitations

- (a) If:
 - (1) an accrual, allowance, provision or reserve in the Completion Working Capital Statement in respect of a Tax exceeds the actual liability in respect of that Tax and that liability has been finally satisfied;
 - (2) an entitlement to any Tax Relief that is shown as an asset in the Completion Working Capital Statement is understated and the amount of the understatement has been actually received by a Target Entity; or
 - (3) an entitlement to any Tax Relief relating to any period prior to Completion that is not shown as an asset in the Completion Working Capital Statement is received after Completion,

then the Seller's liability in respect of any Tax Claims shall be reduced by the amount of the actual excess, actual understatement or amount received (as applicable).
- (b) The Sellers are not liable under a Claim (including a Tax Claim) for any Loss or amount described below:
 - (1) **(inconsistent position):** Loss that arises from a Target Entity taking a position (including in any Tax return, Tax statement or accounts) in relation to the application of a Tax Law that is inconsistent with the position taken by that Target Entity before Completion (including any position adopted in relation to the preparation of any Pre Completion Returns), unless the Target Entity is required to adopt an inconsistent position to comply with a Tax Law but excluding any changes in Tax Law after the date of this agreement; or
 - (2) **(failure to take action):** Loss that arises from a Target Entity's failure to take any action after Completion required by any applicable Tax Law in relation to any Tax.
- (c) No Tax Claim may be made in respect of any Duty to which any Target Entity is, or becomes liable to pay, as a consequence of the execution, delivery and performance of this agreement, any agreement or document entered into or signed under any such agreement, including any acquisition statement or similar document required to be executed by any Governmental Agency.

11.12 Buyer benefits

In assessing any Loss recoverable by the Buyer as a result of any Claim, there must be taken into account any benefit accruing to the Buyer Group (including any amount of any relief, allowance, exemption, exclusion, set-off, deduction, loss, rebate, refund, right to repayment or credit granted or available in respect of a Tax under any law obtained or obtainable by the Buyer Group and any amount by which any Tax for which the Buyer Group is or may

be liable to be assessed or accountable is reduced or extinguished), arising directly or indirectly from the matter that gives rise to that Claim.

11.13 **Sole remedy**

- (a) It is the intention of the parties that the Buyer Group's sole remedies in connection with the Sale will be as set out in this agreement.
- (b) None of the Sellers has any liability to a Buyer Group Member or a Target Entity under a Claim unless the Claim may be made under the terms of this agreement or arises out of a statutory right or other claim that cannot be excluded by contract.
- (c) The Buyer must not, and must procure that each Target Entity, Buyer Group Members and other Affiliates do not, make a Claim of the kind referred to in clause 11.14(b) that the Buyer would not be entitled to make under this agreement or that is otherwise inconsistent with the Buyer's entitlement to make a Claim under this agreement and the Buyer acknowledges that to do so would be to seek to circumvent the parties' intention expressed in clause 11.13.

11.14 **Payments affecting the Purchase Price**

- (a) Any payment made by any of the Sellers to a Buyer Group Member or a Target Entity in respect of any Claim will be in reduction of the Purchase Price.
- (b) Any payment (including a reimbursement) made by a Buyer Group Member or a Target Entity to any Seller in respect of any Claim will be an increase in the Purchase Price.

11.15 **Independent limitations**

Each qualification and limitation in this clause 11 is to be construed independently of the others and is not limited by any other qualification or limitation.

12 **Trustee limitation of liability**

12.1 **Capacity**

Notwithstanding any other provision of this agreement, each Seller enters into this agreement in its capacity as trustee of the relevant Trust and in no other capacity.

12.2 **Limitation of liability**

The recourse of any party to the Sellers in respect of any obligation or liability of the Sellers under or in respect of this agreement is limited to the lower of (a) the Purchase Price received by the Sellers under this agreement and (b) the Sellers' ability to be indemnified from the assets of the Trust and if as a result of this limitation any party does not receive or recover the full amount due to it in connection with the performance or non-performance by the Sellers of any of its obligations, or the payment or non-payment by the Sellers of any of its liabilities, under or in respect of this agreement, the party may not seek to recover the shortfall by bringing proceedings against the Sellers in their personal capacity.

12.3 **Limitation not to apply**

Clause 12.2 does not apply to any obligation or liability of the Sellers to the extent that it is not satisfied because there is for any reason a reduction in the extent of the Sellers' indemnification out of the assets of the Trust arising as a result of its fraud, gross negligence or breach of trust.

13 **Procedures for dealing with Claims**

13.1 **Notice of Claims**

- (a) **(Actual Claims):** The Buyer must promptly notify the Sellers' Representatives if:
 - (1) it decides to make a Claim against any of the Sellers that either alone or together with other Claims against the Sellers exceeds any applicable thresholds set out in clause 11.5(a) (if applicable); or
 - (2) a Third Party Claim or Tax Demand is made that may give rise to a Claim against any Seller or which will or may affect the Completion Working Capital Statement.
- (b) **(Details required):** The Buyer must include in each notice given under clause 13.1(a) all relevant details (including the amount) then known to a Buyer Group Member or a Target Entity of:
 - (1) the Claim and if applicable, any other Claims that together with the Claim give rise to any applicable thresholds in clause 11.5(a) being exceeded;
 - (2) if applicable, the Third Party Claim or Tax Demand; and
 - (3) reasonable details of the facts, matters or circumstances giving rise to the Claim.
- (c) **(Extracts):** The Buyer must also include in each notice given under clause 13.1(a) or 13.1(b) an extract of:

- (1) any part of a Demand (including a Tax Demand) that identifies the liability or amount to which the Claim relates or other evidence of the amount of the Demand to which the Claim relates; and
 - (2) if available or relevant, any corresponding part of any adjustment sheet or other explanatory material issued by a Governmental Agency that specifies the basis for the Demand to which the Claim relates or other evidence of that basis,
- as soon as practicable and in any event within 5 days of receipt of that document by a Buyer Group Member or a Target Entity.
- (d) **(Demands):** The Buyer must provide a copy of any document referred to in clause 13.2 to the Sellers' Representatives as soon as practicable of receipt of that document by a Buyer Group Member or a Target Entity.
 - (e) **(Developments):** The Buyer must also, on an on-going basis, keep the Sellers' Representatives informed of all developments in relation to the Claim notified under clause 13.1(a) or 13.1(b).
 - (f) **(Compliance):** If the Buyer does not fully comply with this clause 13 in respect of a Claim, the Sellers are not liable under the Claim to the extent that the non-compliance has increased the amount of the Claim.

13.2

Third Party Claims

The following additional obligations apply in respect of Third Party Claims:

- (a) **(No admission):** The Buyer must not, and must ensure that each Target Entity and Buyer Group Member does not:
 - (1) accept, compromise or pay;
 - (2) agree to arbitrate, compromise or settle; or
 - (3) make any admission or take any action in relation to,
 a Third Party Claim that may lead to liability on the part of any of the Sellers under a Claim or which will or may affect the Completion Working Capital Statement without the prior written approval of the Sellers' Representatives (which must not be unreasonably withheld or delayed).
- (b) **(Defence of claim):** Following receipt by the Sellers' Representatives of a notice under clause 13.1(a) in respect of a Claim that arises from a Third Party Claim, the Sellers' Representatives (on behalf of the Sellers) may, by giving written notice to the Buyer, assume the conduct of the defence of the Third Party Claim other than where the matter that is the subject of the Third Party Claim may (in the opinion of the Buyer acting reasonably) materially damage the reputation of the Buyer or the Target Entities.
- (c) **(Sellers' assume conduct):** If the Sellers' Representatives advise the Buyer that the Sellers' wish to assume the conduct of the defence of the Third Party Claim under clause 13.2(b), then:
 - (1) **(access)** the Buyer must provide, and must procure that each Buyer Group Member and Target Entity provides, the Sellers' Representatives with all reasonable assistance requested by them in relation to the Third Party Claim, including providing access to witnesses and documentary or other evidence relevant to the Third Party Claim, allowing it and its legal and tax advisers to inspect and take copies of all relevant books, records, files and documents, and providing it with reasonable access to the personnel, premises and chattels of the Buyer Group Members and the Target Entities; and
 - (2) **(actions)** provided that the Sellers provide the Buyer with an indemnity in relation to all Loss that may result from such action, the Buyer must promptly take, and must procure that each Buyer Group Member and Target Entity promptly takes, all action reasonably requested by the Sellers' Representatives to avoid, contest, compromise or defend the Third Party Claim other than where the matter that is the subject of the Claim may (in the opinion of the Buyer acting reasonably) materially damage the reputation of the Buyer or the Target or the Target Entities.
- (d) **(Conduct of claim by Sellers):** If the Sellers' assume the conduct of the defence of a Third Party Claim, in conducting any proceedings or actions in respect of that Third Party Claim the Sellers' Representatives must:
 - (1) act in good faith;
 - (2) liaise with the Buyer in relation to the defence of the Third Party Claim;
 - (3) provide the Buyer with copies of any notice, correspondence or other document relating to the Third Party Claim; and

- (4) act reasonably in all the circumstances, including having regard to the likelihood of success and the effect of the proceedings or actions on the goodwill or reputation of the business of the Buyer.
- (e) **(Buyer assumes conduct):** If the Sellers' Representatives advise the Buyer that the Sellers do not wish to assume the conduct of the defence of the Third Party Claim or the Buyer assumes the conduct of the claim in accordance with clause 13.2(b) or 13.2(c)(2), then the Buyer must procure that any Buyer Group Member or Target Entity that is conducting any proceedings or actions in respect of that Third Party Claim:
 - (1) acts in good faith;
 - (2) liaises with the Sellers' Representatives in relation to the defence of the Third Party Claim;
 - (3) provides the Sellers' Representatives copies of any notice, correspondence or other document relating to the Third Party Claim; and
 - (4) acts reasonably in all the circumstances, including, having regard to the likelihood of success and the effect of the proceedings or actions on the goodwill or reputation of any Seller Group Members or any business of the Seller Group.
- (f) **(Restrictions on access):** nothing in clause 13.2(c)(1) requires the Buyer to allow the Sellers to have access to anything that:
 - (1) is the subject of legal professional privilege; or
 - (2) has been prepared for the purpose of, or in contemplation of, the Buyer making a Claim against the Sellers under this agreement.

13.3 Tax Demands

The following additional obligations apply in respect of Claims arising from or involving a Tax Demand.

- (a) **(Payment if not contesting a Tax Demand):** If the Sellers' Representatives do not advise the Buyer that the Sellers' Representatives wish to contest the Tax Demand then the amount of the Tax Demand will be paid to the Buyer from the Escrow Account (as a reduction in the Purchase Price) the amount notified by the Buyer by the later of:
 - (1) 2 Business Days before the due date for payment to the Governmental Agency; or
 - (2) 10 Business Days after receipt of the notice given by the Buyer under clause 13.1.
- (b) **(Contesting a Tax Demand):** Following receipt of a notice under clause 13.1 in respect of a Claim that arises from or involves a Tax Demand, the Sellers' Representatives may, by written notice to the Buyer no later than 5 Business Days before the due date for payment of the relevant Tax, advise the Buyer that it wishes to contest the Tax Demand.
- (c) **(Procedure for contesting a Tax Demand):** If the Sellers' Representatives advise the Buyer that it wishes to contest the Tax the subject of the Tax Demand then:
 - (1) **(Payment of Tax)** the Sellers must pay the Buyer in their Respective proportions, in Immediately Available Funds and as a reduction in the Purchase Price, so much of the Tax as is required by the relevant Governmental Agency to be paid while any action is being taken under this clause 13.3 by the date that is the later of 2 Business Days before the due date for payment to the Governmental Agency and 10 Business Days after receipt of the notice given by the Buyer under clause 13.1; and
 - (2) **(Objection to Tax Demand or Disputing Action)** at the written request of the Sellers' Representatives, the Buyer must take, or procure that the person required to pay the Tax (**Tax Payor**) takes such Disputing Action in a timely manner in relation to the Tax Demand as the Sellers' Representatives may reasonably require. The Buyer will not be required to take any Disputing Action under this clause 13.3(c)(2) unless the grounds of the objection are considered to have a reasonable chance of success, set out in an opinion from reputable tax practitioner (acceptable to the Buyer) provided to the Buyer as soon as is reasonably practicable.
- (d) **(Conduct of proceedings by the Sellers):** If the Sellers' Representatives contest the Tax the subject of a Tax Demand then the Buyer must follow, and must procure that each Buyer Group Member and Target Entity follows, all reasonable directions of the Sellers' Representatives relating to the conduct of any Disputing Action referred to in clause 13.3(c) and in this clause 13.3(d), including using professional advisers nominated by the Sellers' Representatives. In making such directions, the Sellers' Representatives must:
 - (1) act in good faith;

- (2) liaise with the Buyer in relation to the conduct of any Disputing Action referred to in clause 13.3(c) and this clause 13.3(d);
 - (3) provide the Buyer with reasonable access to a copy of any notice, correspondence of other document relating to that Disputing Action;
 - (4) act reasonably in all circumstances, including, having regard to the likelihood of success and the effect of the directions in the goodwill or reputation of the Business or any party to this agreement.
- (e) **(Access):** The Buyer must provide, and must procure that each Buyer Group Member and Target Entity provides, the Sellers' Representatives with all reasonable assistance requested by it in relation to the Tax Demand and the Disputing Action contemplated by clause 13.3(c) and clause 13.3(d) including providing, at the Sellers' cost, access to witnesses and documentary or other evidence relevant to the Tax Demand or the Disputing Action, allowing it and its legal and tax advisers to inspect and take copies of all relevant books, records, files and documents, and providing it with reasonable access to the personnel, premises and chattels of the Buyer Group Members and the Target Entities for the sole purpose of obtaining information in relation to the Tax Demand or Disputing Action.

14 Buyer Warranties

14.1 Buyer Warranties

The Buyer gives the Buyer Warranties in favour of each of the Sellers on the date of this agreement and the Buyer Warranties will be deemed to be repeated immediately before Completion.

14.2 Independent Warranties

Each of the Buyer Warranties is to be construed independently of the others and is not limited by reference to any other Buyer Warranty.

14.3 Reliance

The Buyer acknowledges that the Sellers have entered into this agreement and will complete this agreement in reliance on the Buyer Warranties.

15 Period after Completion

15.1 Appointment of proxy

- (a) From Completion until the Shares are registered in the name of the Buyer, each Seller must:
 - (1) appoint the Buyer as its sole proxy in respect of its Shares to attend shareholders' meetings and exercise the votes attaching to those Shares;
 - (2) not attend and vote at any shareholders' meetings; and
 - (3) take all other actions in the capacity of a registered holder of the Shares as the Buyer directs.
- (b) The Buyer indemnifies each of the Sellers against all Loss suffered or incurred by it arising out of the implementation of any action taken in accordance with the proxy referred to in clause 15.1(a).

15.2 Access to records by Sellers

- (a) The Buyer must procure that all Business Records are preserved in respect of the period ending on the Completion Date until the later of:
 - (1) 6 years from the Completion Date; and
 - (2) any date required by an applicable law.
- (b) After Completion the Buyer must, on reasonable notice from the Sellers' Representatives:
 - (1) provide the Sellers and their advisers with reasonable access to the Business Records and allow the Sellers to inspect and obtain copies or certified copies of the Business Records; and
 - (2) provide the Sellers and their advisers with reasonable access to the personnel and premises of the Buyer Group Members and the Target Entities,

for the purpose of assisting the Seller Group Members to prepare tax returns, accounts and other financial statements, discharge statutory obligations or comply with Tax or other legal requirements or to conduct legal or arbitration proceedings. Clause 16.2 applies to any information provided and the Sellers will have no claim against any Buyer Group Member or Target Entity with respect to the accuracy, relevance or use of that information.
- (c) The Sellers must reimburse the Buyer for its reasonable costs in retrieving any Business Records and making personnel and premises available under this clause 15.2.

- (d) The Buyer is not obliged to waive legal professional privilege. The Sellers must comply with any reasonable steps requested by the Buyer to preserve confidentiality.
- (e) The Buyer agrees that each of the Sellers may retain copies of any Business Records that they may require to enable them to comply with any applicable law after the Completion Date.

15.3 Consents to change in control

The Sellers must after Completion provide such assistance as the Buyer reasonably requires to obtain consents that are required under the terms of any Fundamental Business Contract to the change in control of the Target Entities that occurred on Completion and which have not been obtained on or before Completion.

15.4 Pre-Completion Tax returns

- (a) The Sellers and the Buyer agree that the Buyer or its duly authorised agent will prepare or procure the preparation of any Tax return for each Target Entity for any Tax period:
 - (1) ending on or prior to the Completion Date (**Pre Completion Period**); and
 - (2) that starts prior to Completion and ends after the Completion Date (**Straddle Period**),so that any Tax return for any Pre Completion Period or Straddle Period may be lodged with the relevant Governmental Agency at the latest, by the last day on which they can be lodged without the imposition of penalties or interest charges.
- (b) The Sellers must provide the Buyer with such reasonable assistance as is required by the Buyer and each Target Entity or its duly authorised agent to prepare any Tax return for any Pre Completion Period or Straddle Period.
- (c) In preparing a Tax return for a Pre Completion Period or Straddle Period:
 - (1) the Buyer must, no later than 10 Business Days prior to the due date for lodgement for a Business Activity Statement and no later than 30 Business Days prior to the due date for lodgement for any other Tax return, provide the Sellers with a copy of the Tax return and supporting calculations for the Sellers' review and comment;
 - (2) if any Sellers object to any item in a relevant Tax return, the Sellers must notify the Buyer of the objection no later than 5 Business Days prior to the due date for lodgement for a Business Activity Statement and no later than 10 Business Days prior to lodgement for any other Tax return and the parties must attempt in good faith to resolve the dispute; and
 - (3) if the parties cannot resolve the dispute by agreement by the due date for lodgement of the Tax return:
 - (A) the Buyer will (or will cause the relevant Target Entity to) lodge the Tax return as prepared by the due date for lodgement;
 - (B) the Buyer and the Sellers must appoint an independent expert to resolve the dispute under clause 15.4(d); and
 - (C) if required as a result of the independent expert's determination, the Buyer will (or will cause the relevant Target Entity to) make, file, lodge or submit an amended Tax return (or otherwise request an amendment of an assessment or propose an adjustment to a Tax return or Tax assessment) which reflects the resolution of the disputed items.
- (d) If the Buyer and the Sellers are required to appoint an independent expert under this clause 15.3, then:
 - (1) they must as soon as practicable appoint an independent expert to determine the proper amounts for the items remaining in dispute, being such person as is agreed by the Buyer and the Sellers, or, if they cannot agree on the identity of the expert within 5 Business Days, such person as is nominated by the Institute of Arbitrators and Mediators Australia as an appropriate Tax expert to resolve the dispute, on the request of either the Buyer or the Sellers;
 - (2) the expert must determine the proper amounts for the items in dispute by applying the usual tax accounting practices of the Target Entities as applied in the period prior to Completion;
 - (3) in reaching its determination, the expert may ask for submissions from the parties and may make its own investigations, as the expert sees fit. Copies of all submissions and details of any investigations must be provided to the Buyer and Sellers;
 - (4) the expert's determination is, in the absence of manifest error, final and binding on the parties and a party must not commence court proceedings or arbitration in relation to the dispute; and

- (5) the expert's costs and expenses in connection with the dispute resolution proceedings will be borne by the parties in the manner determined by the expert (and the parties must request that determination) and in the absence of such a determination will be borne by the Sellers and the Buyer equally.
- The expert appointed under this clause 15.4(d) acts as an expert and not as an arbitrator. The dispute resolution proceedings under this clause 15.4(d) are not arbitration proceedings under the *Commercial Arbitration Act 1984* (NSW).
- (e) The Buyer will (or will cause the relevant Target Entity to):
- (1) prepare and submit Tax returns, elections, surrenders, disclaimers, notices and consents on behalf of the Target Entity for the Pre Completion Period and the Straddle Period;
 - (2) deal with all Tax matters which affect a Target Entity (including the conduct of negotiations and correspondence and agreements with the relevant Governmental Agency) in respect of the Pre Completion Period and the Straddle Period; and
 - (3) provide the Sellers with a copy of such Tax returns as filed as soon as reasonably practicable, provided that the Buyer consults with the Sellers in relation to (and prior to engaging in) any non-routine communications (including, for the avoidance of doubt, where such communications may result in, or otherwise be relevant to, a Tax Claim) with the relevant Governmental Agency in respect of Tax matters that relate to the Pre Completion Period or the Straddle Period.
- (f) The Buyer will not, and will procure that each Target Entity or its duly authorised agent will not, without the Sellers' prior written consent (not to be unreasonably withheld or delayed), seek or apply for an amended Tax assessment (or otherwise propose an adjustment to a Tax return or Tax assessment) in relation to a period ending on or before Completion.
- (g) Except in relation to the preparation of Tax returns for the Pre Completion Period and Straddle Period the parties agree that it is not the intention for the Sellers to have the right to determine, control and where appropriate participate in the disclosure (including manner of disclosure) of any material or information to a Governmental Agency and any other dealings with the Governmental Agency in relation to Tax to the extent such disclosure or other dealings is in respect of any event, act, matter or transaction or amount derived (or deemed to be derived) or expenditure incurred before, on, or as a result of, Completion **(Pre Completion Tax Event)**.
- (h) Without limiting clause 15.4(a), from and after Completion the Buyer agrees that it will, and will procure that each Target Entity and Buyer Group Member will:
- (1) not disclose any information or material to a Governmental Agency in relation to a Pre Completion Tax Event without providing the Sellers with at least 5 Business Days' written notice of doing so and taking into account all reasonable comments of the Sellers in relation to the disclosure;
 - (2) not make any admission of liability, or any agreement, compromise or settlement with a Governmental Agency in relation to a Pre Completion Tax Event without providing the Sellers 5 Business Days' written notice of making the admission and taking into account all reasonable comments of the Sellers in relation to the admission; and
 - (3) promptly provide the Sellers with copies of any correspondence with, or material provided to or by, a Governmental Agency and keep the Sellers informed of any oral discussions with a Governmental Agency in relation to a Pre Completion Tax Event.
- (i) If the Buyer provides a notice under clause 13.1 in respect of a Claim that arises from or involves a Tax Demand, then at all times from the date of receipt of that notice the provisions of clause 13.3 and not this clause 15.3 will apply to that Tax Demand or the Tax or Pre Completion Tax Event the subject of that Tax Demand.

16 Confidentiality and announcements

16.1 Agreed announcement

A party may not make any public announcement relating to this agreement (including the fact that the parties have executed this agreement) unless the other parties have consented to the announcement, including the form and content of that disclosure, or unless the announcement would be permitted under an exemption in clause 16.2(a)(1) or 16.2(a)(2).

16.2 Confidentiality

- (a) Subject to clause 16.2(b), each party (**recipient**) must keep secret and confidential, and must not divulge or disclose any information relating to another party or its business (which is disclosed to the recipient by the other party, its representatives or advisers), this agreement or the terms of the Sale other than to the extent that:
- (1) the information is in the public domain as at the date of this agreement (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the recipient);
 - (2) the recipient is required to disclose the information by applicable law or the rules of any recognised stock exchange on which its shares or securities or the shares or securities of any of its Related Entities are listed or proposed to be listed, provided that the recipient has to the extent possible having regard to the required timing of the disclosure consulted with the provider of the information as to the form and content of the disclosure;
 - (3) the disclosure is made by the recipient to its financiers or lawyers, accountants, investment bankers, consultants or other professional advisers to the extent necessary to enable the recipient to properly perform its obligations under this agreement or to conduct their business generally, in which case the recipient must ensure that such persons keep the information secret and confidential and do not divulge or disclose the information to any other person except as required by law;
 - (4) the disclosure is necessary for the purposes of clause 13.3(a), provided that the relevant Governmental Agency is made aware of the confidential nature of the information and is instructed to keep the information secret and confidential and does not divulge or disclose the information to any other person;
 - (5) the disclosure is required for use in legal proceedings regarding this agreement or the Sale; or
 - (6) the party to whom the information relates has consented in writing before the disclosure.
- (b) In the case of any of the Sellers who are a fund or who hold shares on behalf of a partnership, trust fund or any other entity, the relevant Sellers may make further disclosures to the investment committee, manager, adviser, trustee, custodian, nominee, partner (general, limited or otherwise), investor or prospective investor of or in that partnership, trust, fund or other entity, or investors or prospective investors of other funds managed or advised by that Seller or any of its Related Entities, in which case the recipient must ensure that such persons keep the information secret and confidential and do not divulge or disclose the information to any other person.
- (c) Each recipient must ensure that its directors, officers, employees, agents, representatives, advisers and Related Entities comply in all respects with the recipient's obligations under this clause 16.2.
- (d) Nothing in this agreement is to be construed as constituting the consent of a party, with respect to an Encumbrance created by this agreement, to the disclosure of the terms of this agreement for the purpose of section 275(7) of the PPSA. No party who is the grantor of an Encumbrance under this agreement will, after the date of this agreement, consent to the disclosure of the terms of this agreement to an interested person for the purpose of section 275 of the PPSA.
- (e) To the extent not prohibited by the PPSA, each party that is the grantor of an Encumbrance under this agreement waives its right to receive any notice otherwise required to be given by a secured party under section 157 (verification statements) or any other provision of the PPSA.
- (f) For the avoidance of doubt, the Seller agrees that the confidential information of the Company is the property of the Company and the Seller will have no right to use the confidential information.

16.3 Confidentiality Agreement superseded

The Confidentiality Agreement ceases to be of any force or effect from Completion.

17 Duties, costs and expenses

17.1 Duties

The Buyer must pay all Duty in respect of the execution, delivery and performance of this agreement and any agreement or document entered into or signed under any such agreement, including any acquisition statement or similar document required to be executed by any Governmental Agency.

17.2 **Costs and expenses**

- (a) Unless otherwise provided for in this agreement, each party must pay its own costs and expenses in respect of the negotiation, preparation, execution, delivery and registration of this agreement and any other agreement or document entered into or signed under this agreement.
- (b) Any action to be taken by the Buyer or the Sellers in performing obligations under this agreement must be taken at their own cost and expense unless otherwise provided in this agreement.

18 **GST**

18.1 **Definitions**

Words used in this clause 18 that have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context indicates otherwise.

18.2 **GST**

- (a) Unless expressly stated otherwise, any consideration (monetary or non-monetary) payable or to be provided or amount used in the calculation of a sum payable under or in connection with this agreement has been determined without regard to GST.
- (b) To the extent that any supply made under or in connection with this agreement is a taxable supply (other than any supply made under another agreement that contains a specific provision dealing with GST), the recipient must pay, in addition to the consideration provided under this agreement for that supply (unless it expressly includes GST) an amount (additional amount) equal to the amount of that consideration (or in the case on non-monetary consideration, its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.
- (c) Whenever an adjustment event occurs in relation to any taxable supply to which clause 18.2(b) applies:
 - (1) the supplier must determine the amount of the GST component of the consideration payable;
 - (2) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable; and
 - (3) the supplier must issue the recipient with a tax invoice or adjustment note within 21 days of the supplier becoming aware of the adjustment.

18.3 **Tax invoices**

The supplier must issue a Tax Invoice to the recipient of a supply to which clause 18.2 applies no later than 7 days following payment of the GST inclusive consideration for that supply under that clause.

18.4 **Reimbursements**

If any party is entitled under this agreement to be reimbursed or indemnified by any other party for a cost or expense incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

19 **Guarantee by Buyer's Guarantor**

19.1 **Guarantee and indemnity**

- (a) The Buyer's Guarantor:
 - (1) unconditionally and irrevocably guarantees to the Sellers on demand, the due and punctual performance of the Buyer's obligations under this agreement; and
 - (2) as a separate and additional liability, indemnifies the Sellers against all Loss, actions, proceedings and judgments of any nature, incurred by, brought, made or recovered against the Sellers arising from any default or delay in the due and punctual performance of the Buyer's obligations under this agreement.

19.2 **Extent of guarantee and indemnity**

The liability of the Buyer's Guarantor under this clause 19 is not affected by anything that, but for this clause 19, might operate to release or exonerate the Buyer's Guarantor in whole or in part from its obligations including any of the following, whether with or without the consent of the Buyer's Guarantor:

- (a) the grant to the Buyer, the Buyer's Guarantor or any other person of any time, waiver or other indulgence, or the discharge or release of the Buyer, the Buyer's Guarantor or any other person from any liability or obligation;
- (b) any transaction or arrangement that may take place between the Sellers, the Buyer, the Buyer's Guarantor or any other person;
- (c) the Sellers exercising or refraining from exercising their rights under any security or any other rights, powers or remedies against the Buyer, the Buyer's Guarantor or any other person;
- (d) any variation, amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) of any terms of this agreement or the obligations of the Buyer under this agreement;
- (e) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by the Sellers from the Buyer, the Buyer's Guarantor or any other person or by the taking of or failure to take any security;
- (f) the failure or omission or any delay by the Sellers or the Sellers' Representatives or the Buyer to give notice to the Buyer's Guarantor of any default by the Buyer or any other person under this agreement; or
- (g) any legal limitation, disability, incapacity or other circumstances related to the Buyer, the Buyer's Guarantor or any other person or any change in the members or status of the Buyer or any other person.

19.3 **Principal and independent obligation**

This clause 19 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this agreement as amended, varied, supplemented, renewed or replaced.

19.4 **Continuing guarantee and indemnity**

This clause 19 is a continuing obligation of the Buyer's Guarantor, despite Completion, and remains in full force and effect for so long as the Buyer has any liability or obligation to the Sellers under this agreement and until all of those liabilities or obligations have been fully, irrevocably and unconditionally discharged.

19.5 **No withholdings**

- (a) The Buyer's Guarantor must make all payments that become due under this clause 19, free and clear and without deduction of all present and future withholdings (including Taxes, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If the Buyer's Guarantor is compelled by law to deduct any withholding, then in addition to any payment due under this clause 19, it must pay to the Sellers such amount as is necessary to ensure that the net amount received by the Sellers after withholding equals the amount the Sellers would otherwise have been entitled to if not for the withholding.

19.6 **Currency**

The Buyer's Guarantor must pay all moneys that it becomes liable to pay under this clause 19 in the currency in which they are payable under this agreement and free of any commissions and expenses relating to foreign currency conversion or any other charges or expenses.

19.7 **No set off**

The Buyer's Guarantor has no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 19, against any moneys that the Sellers or any other Seller Group Member may be, or become, liable to pay to a Buyer Group Member whether under this agreement or otherwise.

19.8 **Buyer's Guarantor's Liability**

The Buyer's Guarantor's liability in respect of any Claim shall not exceed the Buyer's liability in respect of that Claim.

20 **Guarantee by Sellers' Guarantors**

20.1 **Guarantee and indemnity**

Each Sellers' Guarantor:

- (a) unconditionally and irrevocably guarantees to the Buyer on demand, the due and punctual performance of its Related Seller's obligations under the Title and Capacity Warranties; and
- (b) as a separate and additional liability, indemnifies the Buyer against all Loss suffered by the Buyer arising from any breach by its Related Seller of the Title and Capacity Warranties and Tax Warranties.

20.2 **Extent of guarantee and indemnity**

The liability of each Sellers' Guarantor under this clause 20 is not affected by anything that, but for this clause 19, might operate to release or exonerate the Sellers' Guarantor in whole or in part from its obligations including any of the following, whether with or without the consent of the Sellers' Guarantors:

- (a) the grant to the Related Seller, the Sellers' Guarantor or any other person of any time, waiver or other indulgence, or the discharge or release of the Related Seller, the Sellers' Guarantors or any other person from any liability or obligation;
- (b) any transaction or arrangement that may take place between the Buyer, the Related Seller, the Sellers' Guarantor or any other person;
- (c) the Buyer exercising or refraining from exercising its rights under any security or any other rights, powers or remedies against the Related Seller, the Sellers' Guarantors or any other person;
- (d) any variation, amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) of any terms of this agreement or the obligations of the Related Seller under this agreement;
- (e) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by the Buyer from the Related Seller, the Sellers' Guarantor or any other person or by the taking of or failure to take any security;
- (f) the failure or omission or any delay by the Buyer or the Buyer's Representatives or the Related Seller to give notice to the Sellers' Guarantor of any default by the Related Seller or any other person under this agreement; or
- (g) any legal limitation, disability, incapacity or other circumstances related to the Related Seller, the Sellers' Guarantor or any other person or any change in the members or status of the Related Seller or any other person.

20.3 **Principal and independent obligation**

This clause 20 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this agreement as amended, varied, supplemented, renewed or replaced.

20.4 **Continuing guarantee and indemnity**

This clause 20 is a continuing obligation of the Sellers' Guarantors, despite Completion, and remains in full force and effect for so long as the Related Sellers have any liability or obligation to the Buyer under Title and Capacity Warranties and until all of those liabilities or obligations have been fully, irrevocably and unconditionally discharged.

20.5 **No withholdings**

- (a) The Sellers' Guarantors must make all payments that become due under this clause 19, free and clear and without deduction of all present and future withholdings (including Taxes, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If any Sellers' Guarantor is compelled by law to deduct any withholding, then in addition to any payment due under this clause 19, they must pay to the Buyer such amount as is necessary to ensure that the net amount received by the Buyer after withholding equals the amount the Buyer would otherwise have been entitled to if not for the withholding.

20.6 **Currency**

Each Sellers' Guarantor must pay all moneys that it becomes liable to pay under this clause 19 in the currency in which they are payable under this agreement and free of any commissions and expenses relating to foreign currency conversion or any other charges or expenses.

20.7 **No set off**

The Sellers' Guarantor have no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 19, against any moneys that the Buyer or any other Buyer Group Member may be, or become, liable to pay to a Related Seller Group Member whether under this agreement or otherwise.

20.8 **Buyer's Guarantor's Liability**

Each Seller's Guarantor's liability in respect of any Claim under the Title and Capacity Warranties shall not exceed the Related Seller's Respective Proportion of the Purchase Price.

21 **Sellers' Representatives**

21.1 **Authority**

Each of the Sellers:

- (a) despite any other provision of this agreement, irrevocably authorises the Sellers' Representatives (subject only to clause 21.2) to jointly act on its behalf in relation to any act, matter or thing required or permitted by the terms of this agreement to be done by the Sellers or any of them, including:
 - (1) to give and receive payments and documents on behalf of any Seller;
 - (2) to direct payments to be made from or to any of the Sellers' accounts;
 - (3) to give and receive notices;
 - (4) to give any approval or exercise any discretion;
 - (5) to amend, vary or waive any provision of this agreement or any matter relating to this agreement;
 - (6) to carry out any act or execute any document necessary or desirable in connection with effecting Completion in accordance with clause 6 of this agreement for and on behalf of and as attorney for any of the Sellers; and
 - (7) to carry out any act or execute any document necessary or desirable in relation to any Claim or potential Claim under or in respect of any transaction or matter contemplated by this agreement, including to pursue, settle or compromise any such Claim on such terms as the Sellers' Representatives may in their absolute discretion determine;
- (b) acknowledges that the Buyer is entitled to treat any act, matter or thing done by the Sellers' Representatives as binding on all Sellers and is not required to enquire further in respect of such act, matter or thing; and
- (c) acknowledges that the Buyer may discharge any obligation under this agreement to give any payment, document, notice or other thing to one or more of the Sellers (including any document served to initiate or as part of legal proceedings against any one or more of the Sellers) by giving it to the Sellers' Representatives.

21.2 Replacement

The Sellers' Representatives may by notice to the parties replace the Sellers' Representatives with such persons as are specified in the notice.

22 Notices

22.1 Form of Notice

A notice or other communication to a party under this agreement (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to that party in accordance with the details set out in the table below (or any alternative details nominated to the sending party by Notice).

Party	Notice details
Any or all Sellers and Sellers' Guarantors	<p>Attention: Daniel Dempsey Address: Level 1, 195 Given Terrace, Paddington, Queensland 4064 Email: dpdempsey@mac.com</p> <p>Attention: Michael Dempsey Address: Level 1, 195 Given Terrace, Paddington, Queensland 4064 Email: Michael@thenormanby.com.au</p> <p>and copy to: Attention: Bryan Pointon, DLA Piper Australia Address: No. 1 Martin Place, Sydney, NSW, Australia 2000 Email: bryan.pointon@dlapiper.com</p>
Buyer	<p>Attention: General Counsel and Corporate Secretary, Global Payments Inc Address: 10 Glenlake Parkway, North Tower, Atlanta, Georgia 30328, United States of America Email: david.green@globalplay.com</p>
Buyer's Guarantor	<p>Attention: General Counsel and Corporate Secretary, Global Payments Inc Address: 10 Glenlake Parkway, North Tower, Atlanta, Georgia 30328, United States of America Email: david.green@globalplay.com</p>

22.2 **How Notice must be given and when Notice is received**

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below. However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	When the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf.

23 **General**

23.1 **Governing law and jurisdiction**

- (a) This agreement and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims) shall be governed by and construed in accordance with Queensland law.
- (b) Each party irrevocably agrees for the benefit of the Seller that the Courts of Queensland shall have non-exclusive jurisdiction in relation to any dispute or claim arising out of or in connection with this agreement or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims).
- (c) Each party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

23.2 **Service of process**

- (a) Without preventing any other mode of service, any document in an action (including, any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clause 22.1 or this clause 23.2 (as applicable).
- (b) The Buyer's Guarantor irrevocably appoint Jones Day of Level 41 Aurora Place, 88 Phillip Street, Sydney, New South Wales, Australia 2000 as its agent for the service of process in Australia in relation to any matter arising out of this agreement. If Jones Day ceases to be able to act as such or have an address in Australia, the Buyer's Guarantor must appoint a new process agent in Australia and deliver to the Sellers' Representatives within 20 Business Days a copy of a written acceptance of appointment by the process agent, upon receipt of which the new appointment becomes effective for the purpose of this agreement. The Buyer's Guarantor must inform the Sellers' Representatives in writing of any change in the address of its process agent within 20 Business Days of the change.

23.3 **Invalidity and enforceability**

- (a) If any provision of this agreement that is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 23.3(a) does not apply where enforcement of the provision of this agreement in accordance with clause 23.3(a) would materially affect the nature or effect of the parties' obligations under this agreement.

23.4 **Waiver**

- (a) No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing signed by the party granting the waiver.
- (b) In this clause 23.4:
 - (1) **conduct** includes delay in the exercise of a right;
 - (2) **right** means any right arising under or in connection with this agreement and includes the right to rely on this clause; and
 - (3) **waiver** includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.
- (c) A provision of, or a right, discretion or authority created under, this agreement may not be:
 - (1) waived except in writing signed by the party granting the waiver; and
 - (2) varied except in writing signed by the parties.
- (d) A failure or delay in exercise, or partial exercise, of a power, right, authority, discretion or remedy arising from a breach of, or default under this agreement does not result in a waiver of that right, power, authority, discretion or remedy.

23.5 **Variation**

A variation of any term of this agreement must be in writing and signed by the parties.

23.6 **Assignment**

- (a) Rights arising out of or under this agreement are not assignable by a party without the prior written consent of the other parties.
- (b) A breach of clause 23.6(a) by a party entitles the other parties to terminate this agreement.
- (c) Clause 23.6(b) does not affect the construction of any other part of this agreement.

23.7 **Further action to be taken at each party's own expense**

Subject to clause 17, each party must, at its own expense, do all things and execute all documents necessary to give full effect to this agreement and the transaction contemplated by it and use reasonable endeavours to cause relevant third parties to do the same.

23.8 **Relationship of the parties**

- (a) Other than clauses 21.1 and 21.2, nothing in this agreement gives a party authority to bind any other party in any way.
- (b) Nothing in this agreement imposes any fiduciary duties on a party in relation to any other party.

23.9 **Exercise of rights**

- (a) Unless expressly required by the terms of this agreement, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this agreement.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this agreement. Any conditions must be complied with by the party relying on the consent, approval or waiver.

23.10 **Remedies cumulative**

Except as provided in this agreement and permitted by law, the rights, powers and remedies provided in this agreement are cumulative with and not exclusive to the rights, powers or remedies provided by law independently of this agreement.

23.11 **Counterparts**

This agreement may be executed in any number of counterparts.

23.12 **Entire Agreement**

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, with respect to the subject matter of this agreement other than the Confidentiality Agreement.

23.13 **No reliance**

No party has relied on any statement by the/any other party not expressly included in this agreement.

23.14 **Default Interest**

- (a) If a party fails to pay any amount payable under this agreement on the due date for payment, that party must in addition to a continuing liability to pay the amount unpaid pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged (calculated on a per annum basis).
- (b) The interest payable under clause 23.14(a):
 - (1) accrues from day to day from and including the due date for payment up to and including the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (2) may be capitalised by the person to whom it is payable at monthly intervals on the basis of a 365 day year.
- (c) The right to require payment of interest under this clause 23.14 is without prejudice to any other rights the non-defaulting party may have against the defaulting party at law or in equity.
- (d) A failure to pay any amount under this agreement is not remedied until both the amount unpaid and any interest payable under this clause 23.14 have been paid in full.

23.15 **No withholdings**

The Buyer and the Sellers must make all payments that become due under this agreement, free and clear and without deduction of all present and future withholdings (including Taxes, levies, imposts, deductions and charges of Australia or any other jurisdiction) unless required by any applicable law, and where such withholding or deduction is required by law the party making the payment must increase the payment by such an amount as will leave the party receiving the payment with the same amount which would have been received had no such withholding or deduction been required.

23.16 **No partnership**

Nothing in the agreement or in any document referred to in it will constitute any of the parties a partner of any other, nor shall the execution, completion and implementation of this agreement confer on any party any power to bind or impose any obligations to any third parties on any other party or to pledge the credit of any other party.

23.17 **Effect of Completion**

So far as it remains to be performed this agreement shall continue in full force and effect after Completion. The rights and remedies of the parties shall not be affected by Completion.

23.18 **No set-off, deduction or counterclaim**

Every payment payable under this agreement shall be made in full without any set-off or counterclaim howsoever arising and will be free and clear of, and without deduction of, or withholding for or on account of, any amount which is due and payable under this agreement.

Signing page

Executed as an agreement

Executed by **Jambach Pty Limited ACN 100 647 283** (in its capacity as trustee of the Dutch Investment Trust) acting by the following persons in accordance with section 127 of the *Corporations Act 2001* (Cth):

/s/ Marea Holland
Signature of director
Marea Holland
Name of director (print)

/s/ John L. Holland
Signature of director/company secretary
John L. Holland
Name of director/company secretary (print)

Executed by **MSP Management Pty Limited ACN 010 927 410** (in its capacity as trustee of the Welsh Management Trust) acting by the following person or, if the seal is affixed, witnessed by the following person in accordance with s127 of the *Corporations Act 2001*:

/s/ Megan Welsh
Signature of sole company secretary
Megan Welsh
Name (print)

/s/ Dr. Peter Welsh
Signature of sole director
Dr. Peter Welsh
Name of director/company secretary (print)

Executed by **Korobosea Pty Limited ACN 110 252 241** (in its capacity as trustee of the Pikinini No 1 Trust) acting by the following person or, if the seal is affixed, witnessed by the following person in accordance with s127 of the Corporations Act 2001:

/s/ Theresia Wilhelm.
Signature of sole director and sole company secretary
Theresia Wilhelm
Name (print)

Executed by **Marea Mason Holland** (in her capacity as trustee of the Holland Superannuation Fund):

/s/ Alexander Samson.
Signature of witness
Alexander Samson
Name of witness (print)

/s/ Marea Mason Holland
Signature of **Marea Mason Holland**

Executed by **Zacstar Pty Limited ACN 101 907 091** (in its capacity as trustee of the Zenonos Discretionary Trust) acting by the following person or, if the seal is affixed, witnessed by the following person in accordance with s127 of the Corporations Act 2001:

/s/ Louis Zenonos
Signature of sole director and sole company secretary
Louis Zenonos
Name (print)

Executed by **Moramou2 Pty Limited ACN 153 507 629** (in its capacity as trustee of the Mora Mou Family Trust) acting by the following person or, if the seal is affixed, witnessed by the following person in accordance with s127 of the Corporations Act 2001:

/s/ Jacqueline Toumbas.
Signature of sole director and sole company secretary
Jacqueline Toumbas
Name (print)

Executed by **Ritdan Pty Limited ACN 143 141 539** by Bryan Pointon under Power of Attorney dated 11 September 2014:

/s/ Bryan Pointon.
Signature of Attorney
Bryan Pointon.
Name of Attorney (print)

/s/ James McCarthy
Signature of Witness
James McCarthy
Name of Witness (print)

Executed by **S Seven D Pty Limited ACN 130 881 971** (in its capacity as trustee of the S Seven D Discretionary Trust) acting by the following person or, if the seal is affixed, witnessed by the following person in accordance with s127 of the Corporations Act 2001:

/s/ Michael Dempset.
Signature of sole director and sole company secretary
Michael Dempset
Name (print)

Executed by **Peter Welsh:**

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Peter Welsh
Signature of **Peter Welsh**

Executed by **Otto Wilhelm:**

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Otto Wilhelm.
Signature of **Otto Wilhelm**

Executed by **Marea Mason Holland:**

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Marea Mason Holland
Signature of **Marea Mason Holland**

Executed by **Louis Zenonos:**

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Louis Zenonos.
Signature of **Louis Zenonos**

Executed by **Louis Toumbas:**

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Louis Toumbas.
Signature of **Louis Toumbas**

Executed by **Daniel Dempsey** by Bryan Pointon under Power of Attorney dated 11 September 2014:

/s/ Bryan Pointon
Signature of Attorney
Bryan Pointon.
Name of Attorney (print)

/s/ James McCarthy
Signature of Witness
James McCarthy.
Name of Witness (print)

Executed by **Michael Dempsey**:

/s/ Alexander Samson.
Signature of witness
Alexander Samson.
Name of witness (print)

/s/ Michael Dempsey
Signature of **Michael Dempsey**

Executed by **Global Payments Australia 2 Pty Limited** ACN 601 396 847 acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with section 127 of the Corporations Act 2001 (Cth):

/s/ Morgan M. Schuessler.
Signature of director
Morgan M. Schuessler.
Name of director (print)

/s/ David L. Green.
Signature of director/company secretary
David L. Green.
Name of director/company secretary (print)

Executed by **Global Payments Inc.** by its authorised signatory:

/s/ David L. Green
Signature of authorised signatory
David L. Green
Name of authorised signatory (print)
Corporate Secretary.
Office held

**CERTIFICATION PURSUANT TO
RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Jeffrey S. Sloan, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Global Payments Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) 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 officer(s) 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.

By: /s/ Jeffrey S. Sloan _____

Date: January 8, 2015

Jeffrey S. Sloan
Chief Executive Officer

**CERTIFICATION PURSUANT TO
RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Cameron M. Bready, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Global Payments Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) 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 officer(s) 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.

By: /s/ Cameron M. Bready

Date: January 8, 2015

Cameron M. Bready
Chief Financial Officer

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

In connection with the Quarterly Report of Global Payments Inc. on Form 10-Q for the period ended November 30, 2014 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Jeffrey S. Sloan, Chief Executive Officer of Global Payments Inc. (the "Company"), and Cameron M. Bready, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- 1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Jeffrey S. Sloan

Jeffrey S. Sloan
Chief Executive Officer
Global Payments Inc.
January 8, 2015

/s/ Cameron M. Bready

Cameron M. Bready
Chief Financial Officer
Global Payments Inc.
January 8, 2015

A signed original of this written statement required by Section 906 has been provided to Global Payments Inc. and will be retained by Global Payments Inc. and furnished to the Securities and Exchange Commission upon request.

