

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

**FORM 20-F**

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934  
OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
*For the fiscal year ended December 31, 2020*

OR

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

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
Commission file number 0-27466

**NICE LTD.**

(Exact name of Registrant as specified in its charter)

N/A

(Translation of Registrant's name into English)

**Israel**

(Jurisdiction of incorporation or organization)

**13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel**

(Address of principal executive offices)

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(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

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

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange On Which Registered</u>
<b><u>American Depositary Shares, each representing one Ordinary Share, par value one New Israeli Shekel per share</u></b>	<b><u>NICE</u></b>	<b><u>NASDAQ Global Select Market</u></b>

Securities registered or to be registered pursuant to Section 12(g) of the Act:

**None**

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

**None**

(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: **63,050,434 Ordinary Shares, par value NIS 1.00 per share (which excludes 11,724,393 treasury shares)**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934.

Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days:

Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes  No

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

Large Accelerated Filer

Accelerated Filer

Non-Accelerated Filer

Emerging Growth Company

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

The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP

International Financial Reporting Standards as issued by the International Accounting Standards Board

Other

If "Other" has been checked in response to the previous question indicate by check mark which financial statement item the registrant has elected to follow:

Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

## PRELIMINARY NOTE

This annual report contains historical information and forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 with respect to NICE’s business, financial condition and results of operations. The words “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “project,” “should,” “strategy,” “continue,” “goal” and “target” and similar expressions, as they relate to NICE or its management, are intended to identify forward-looking statements. Such statements reflect the current beliefs, expectations and assumptions of NICE with respect to future events and are subject to risks and uncertainties. The forward-looking statements relate to, among other things: operating results; anticipated cash flows; gross margins; adequacy of resources to fund operations; our ability to maintain our average selling prices despite the aggressive marketing and pricing strategies of our competitors; our ability to maintain and develop profitable relationships with our key distribution channels; the financial strength of our key distribution channels; and the market’s acceptance of our technologies, products and solutions.

In connection with the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995, we are identifying important factors that, individually or in the aggregate, could cause actual results and outcomes to differ materially from those contained in any forward-looking statements made by us; any such statement is qualified by reference to the following cautionary statements. Many factors could cause the actual results, performance or achievements of NICE to be materially different from any future results, performance or achievements that may be expressed or implied by such forward-looking statements, including, among others, changes in general economic and business conditions, competition with existing or new competitors, success and growth of cloud Software-as-a-Service business, successful execution of our growth strategy, difficulties in making additional acquisitions or effectively integrating acquired operations, dependency on third-party cloud computing platform providers, hosting facilities and service partners, rapidly changing technology, cyber security attacks or other security breaches, privacy concerns and legislation, changes in currency exchange rates and interest rates, the effects of additional tax liabilities resulting from our global operations and various other factors, both referenced and not referenced in this annual report. In addition, COVID-19 is contributing to a general slowdown in the global economy. At this time, the extent and duration of the continued impact of the pandemic is unknown, and therefore we cannot predict how it may affect the Company’s future business, results of operations, financial condition and strategic plans. Furthermore, due to our subscription-based business model, the effect of COVID-19 may not be fully reflected in our results of operations until future periods, if at all. These risks are more fully described under Item 3, “Key Information – Risk Factors” of this annual report. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those described herein as anticipated, believed, estimated, expected, intended, planned or projected. All forward-looking statements are made only as of the date hereof. NICE does not intend or assume any obligation to update these forward-looking statements. Investors should bear this in mind as they consider forward-looking statements and whether to invest or remain invested in NICE’s securities.

In this annual report, all references to “NICE,” “we,” “us,” “our” or the “Company” are to NICE Ltd., a company organized under the laws of the State of Israel, and its wholly-owned subsidiaries. For a list of our significant subsidiaries, please refer to page 52 of this annual report.

In this annual report, unless otherwise specified or unless the context otherwise requires, all references to “\$” or “dollars” are to U.S. Dollars, all references to “EUR” are to Euros, all references to “GBP” are to British Pounds, all references to “CHF” are to Swiss Francs, all references to “NIS” are to New Israeli Shekels and all references to “INR” are to Indian Rupee. Except as otherwise indicated, the financial statements of and information regarding NICE are presented in U.S. dollars.

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## PART I

### Item 1. Identity of Directors, Senior Management and Advisers.

Not Applicable.

### Item 2. Offer Statistics and Expected Timetable.

Not Applicable.

### Item 3. Key Information.

#### Selected Financial Data

The following selected consolidated balance sheet data as of December 31, 2019 and 2020 and the selected consolidated statements of income data for the years ended December 31, 2018, 2019 and 2020 have been derived from our audited consolidated financial statements included in this annual report. These financial statements have been prepared in accordance with United States generally accepted accounting principles, or U.S. GAAP, and audited by Kost, Forer, Gabbay & Kasierer, a member of EY Global. The selected consolidated balance sheet data as of December 31, 2016, 2017 and 2018 and the selected consolidated statements of income data for the years ended December 31, 2016 and 2017 have been derived from other consolidated financial statements not included in this annual report and have also been prepared in accordance with U.S. GAAP and audited by Kost, Forer, Gabbay & Kasierer, a member of EY Global. The selected consolidated financial data set forth below should be read in conjunction with and are qualified by reference to Item 5, “Operating and Financial Review and Prospects”, the consolidated financial statements and notes thereto and other financial information included elsewhere in this annual report.

	Year Ended December 31,				
	2016	2017	2018	2019	2020
(In thousands, except per share data)					
<b>OPERATING DATA:</b>					
Revenue					
Cloud	\$ 85,507	\$ 361,166	\$ 461,183	\$ 595,748	\$ 777,331
Services	623,783	652,040	719,531	709,064	687,532
Product	306,252	318,946	263,805	269,100	183,153
Total revenue	1,015,542	1,332,152	1,444,519	1,573,912	1,648,016
Cost of revenue					
Cloud	34,679	192,588	236,079	289,852	339,985
Services	250,022	225,020	229,671	218,990	199,803
Product	53,032	51,065	31,065	22,926	22,164
Total cost of revenue	337,733	468,673	496,815	531,768	561,952
Gross profit	677,809	863,479	947,704	1,042,144	1,086,064
Operating expenses:					
Research and development, net	141,528	181,107	183,830	193,718	218,182
Selling and marketing	268,349	403,230	412,935	441,687	445,102
General and administrative	133,756	129,071	153,323	168,022	180,733
Total operating expenses	543,633	713,408	750,088	803,427	844,017
Operating income	134,176	150,071	197,616	238,717	242,047
Financial and other income (expense), net	10,305	(20,411)	(10,901)	(4,444)	(4,859)
Income before taxes on income	144,481	129,660	186,715	234,273	237,188
Taxes on income (tax benefits)	21,412	(13,631)	27,377	48,369	40,842

	<b>Year Ended December 31,</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Net income from continuing operations	123,069	143,291	159,338	185,904	196,346
Loss from discontinued operations	(8,235)	—	—	—	—
Tax benefit on discontinued operations	(2,086)	—	—	—	—
Net income from discontinued operations	(6,149)	—	—	—	—
Net income	116,920	143,291	159,338	185,904	196,346
Less: net loss attributable to non-controlling	—	—	—	—	327
<u>net income attributable to NICE Ltd.'s shareholders interests</u>	116,920	143,291	159,338	185,904	196,673
<u>Basic earnings per share from continuing operations</u>	\$ 2.06	\$ 2.37	\$ 2.60	\$ 2.99	\$ 3.13
Basic loss per share from discontinued operations	\$ (0.10)	\$ —	\$ —	\$ —	\$ —
<u>Basic earnings per share</u>	\$ 1.96	\$ 2.37	\$ 2.60	\$ 2.99	\$ 3.13
Weighted average number of shares used in computing basic earnings per share	59,667	60,444	61,387	62,120	62,710
<u>Diluted earnings per share from continuing operations</u>	\$ 2.02	\$ 2.31	\$ 2.52	\$ 2.88	\$ 2.98
Diluted loss per share from discontinued operations	\$ (0.10)	\$ —	\$ —	\$ —	\$ —
<u>Diluted earnings per share</u>	\$ 1.92	\$ 2.31	\$ 2.52	\$ 2.88	\$ 2.98
Weighted average number of shares used in computing diluted earnings per share	61,035	62,119	63,309	64,661	65,956

	<b>At December 31,</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
	<b>(In thousands)</b>				
<b>BALANCE SHEET DATA*:</b>					
Working capital**	\$ 13,713	\$ 132,154	\$ 201,217	\$ 160,272	\$ 1,121,456
Total assets	2,631,876	2,845,086	3,207,366	3,609,905	4,232,917
Shareholders' equity	1,511,332	1,749,561	2,016,613	2,257,266	2,588,484

\*Including assets and liabilities that are accounted for as discontinued operations.

\*\*Including deferred revenues and advances from customers that are classified as long-term liabilities.

### **Risk Factors**

*Our business faces significant risks. You should carefully consider all of the information set forth in this annual report and in our other filings with the Securities and Exchange Commission ("the SEC"), including the following risk factors which we face, and which are faced by our industry. The risks and uncertainties described below are not the only ones facing us. Other events, circumstances or factors that we do not currently anticipate or that we currently do not deem to be material risks may also affect our business, results of operations and financial condition. Our business, financial condition and results of operations could be materially and adversely affected by any of these risks.*

## ***Risks Relating to our Business, Competition and Markets***

### **The markets in which we operate are highly competitive and we may be unable to compete successfully.**

The markets for our products, solutions and related services are, in general, highly competitive. Our competitors include a number of large, established software development vendors. Some of our principal competitors or potential competitors may have advantages over us, including greater resources, a broader portfolio of products, applications and services, greater brand recognition, larger patent and intellectual property portfolios and access to larger customer bases, all of which would enable them to better adapt to new or emerging technologies or customer requirements or devote more resources to the marketing and sale of their products and services.

Additional competition from new potential entrants to our markets, including new technology vendors competing in specific areas of our business, may lead to the widespread availability and standardization of some of the products and services we provide, which could result in the commoditization of our products and services, reduce the demand for our products and services and drive us to lower our prices.

In recent years, some of our competitors have increased their presence in our markets through internal development, partnerships and acquisitions. Infrastructure and/or enterprise software vendors, such as those from the traditional enterprise business intelligence and business analytics sector, Customer Relationship Management (“CRM”) vendors or Platform as a Service (“PaaS”) vendors, have entered or may decide in the future to enter our market space and compete with us by offering comprehensive solutions (whether through internal development or through acquisition of any of our competitors). In addition, some Unified Communications as a Service (“UCaaS”) and video collaboration providers have acquired or may decide to build or acquire contact center as a Service (“CCaaS”) solutions. If we are not able to compete effectively with these market entrants or other competitors, we may lose market share and our business, financial condition or results of operations could be adversely affected.

In light of the intense competition in our markets, successful development, positioning and sales execution of our products is a critical factor in our ability to successfully compete and maintain growth. Therefore, we must continue making significant expenditures on research and development, marketing and sales to compete effectively. In addition, our software solutions may compete with software developed internally by potential customers, as well as software and other solutions offered by competitors. We cannot ensure that the market awareness or demand for our new products or applications will grow as rapidly as we expect, or that the introduction of new products or technological developments by others will not adversely impact the demand for our products.

Successful marketing of our products and services to our customers and partners will be critical to our ability to maintain growth. We cannot assure that our products or existing partnerships will permit us to compete successfully. The market for some of our solutions is highly fragmented and includes a broad range of product offerings, features and capabilities. Consolidation through mergers and acquisitions, or alliances formed, among our competitors in this market, who may have greater resources than we have, could substantially influence our competitive position.

As we expand into new markets, we are faced with new challenges, including new competition, which may possess specific assets, relationships, know-how, and technologies that enable our competitors to better respond to customer requirements or preferences or devote greater resources to the development, promotion and sale of their products.

Additionally, prices of our solutions may decrease throughout the market due to competitive pressures, especially at times of economic difficulty. Further, in relation to our cloud offering, we may be affected by the pricing of certain infrastructure services, such as in the area of Platform as a Service and network connectivity, which would in turn affect the rates we offer to our customers. This could have a negative effect on our gross profit and results of operations.

### **We may not be successful in our Cloud Software-as-a-Service business.**

Our cloud-based business has grown significantly, and therefore we are more dependent now on the success of this area of our business. If we are not able to compete effectively, generate significant revenues or maintain the profitability of our cloud offerings, or if we do not successfully execute our cloud strategy or anticipate the cloud needs of our customers, our revenues could decline and our reputation may be adversely affected.

We rely on computer hardware leased, and software licensed, from third parties in order to offer our cloud services. In addition, we rely on cloud computing platforms provided by third parties, including PaaS provided by strategic partners



such as Amazon, Microsoft, Rackspace, Equinix and Lumen. These hardware, software and cloud computing platforms may not continue to provide competitive features and functionality, or may not be available at reasonable prices or on commercially reasonable terms. In addition, some of our customers may not accept the use of such services or particular platforms. The inability to use any of these hardware, software or cloud computing platforms could have a material adverse impact on our business, increase our expenses and otherwise result in delays in providing our services until equivalent technology is either developed by us, or obtained through purchase or license and integrated into our services. As we grow our cloud-based business, we will continue to depend on both existing and new strategic relationships with such vendors. Our inability to establish and foster these relationships could adversely affect the development of our cloud-based business, our growth, reputation and our results of operations.

The increasing prevalence of cloud and Software-as-a-Service (“SaaS”) delivery models offered by us and our competitors may unfavorably impact pricing in both our on-premises enterprise software business and our cloud business, as well as overall demand for our on-premises software product and service offerings, which could reduce our revenues and profitability. With our move to cloud-based solutions, we cannot guarantee that revenues generated from our cloud offerings will compensate for a loss of business in our on-premises enterprise software business.

Further, cloud computing may make it easier for new competitors to enter our markets due to the lower up-front technology costs and easier implementation and for existing market participants to compete with us on a greater scale. Such increased competition is likely to heighten the pressure on us to decrease our pricing, which could have a negative effect on our revenues, profitability and results of operations.

The business model of our cloud offerings differs from the business model for the sale of products and services. Our cloud offerings are generally purchased by customers on a subscription basis and revenues from these offerings are generally recognized ratably over the term of the subscriptions. Therefore, the shift to SaaS-based sales could result in a delay in revenue recognition and materially adversely affect our results of operations and our rate of growth.

Moreover, our subscription model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from new customers must be recognized over the applicable subscription period.

**The markets in which we operate are characterized by rapid technological changes and frequent new products and service introductions.**

We operate in several markets, each characterized by rapidly changing technology, new product introductions and evolving industry standards. The introduction of products embodying new technology and the emergence of new industry standards might exert price pressures on our existing products or render them obsolete. Our markets are also characterized by consistent demand for state-of-the-art technology and products. Existing and potential competitors might introduce new and enhanced products that could adversely affect the competitive position of our products.

We believe that our ability to anticipate changes in technology and industry standards and to successfully develop and introduce new, enhanced and differentiated products, on a timely basis, in each of the markets in which we operate, is a critical factor in our ability to grow our business. As a result, we expect to continue to make significant expenditures on research and development, particularly with respect to new software applications, which are continuously required in all our business areas. In the event that we do not anticipate changes in technology or industry practices or fail to timely address market needs or not be able to provide the products that are in demand, we may lose market share and our results of operations may be materially adversely affected.

Further, customer adoption of new technologies may be slower than we anticipate. We cannot assure that the market or demand for our products and solutions will be sustained or grow as rapidly as we expect (if at all) that we will successfully develop new products or introduce new applications for existing products, that such new products and applications will achieve market acceptance, or that the introduction of new products or technological developments by others will not render our products obsolete. In addition, our products must readily integrate with major third-party telephone, security, front-office and back-office systems. Any changes to these third-party systems could require us to redesign our products, and any such redesign might not be possible on a timely basis or achieve market acceptance. Our inability to develop products that are competitive in technology and price and responsive to customer needs could have a material adverse effect on our business, financial condition and results of operations.

**We may not be able to successfully execute our growth strategy.**

Our strategy is to continue investing in, enhancing and securing our business and operations and growing our business, both organically and through acquisitions. Investments in, among other things, new markets, products, solutions, and technologies, research and development, infrastructure and systems, geographic expansion, and additional qualified and experienced personnel, are critical to achieving our growth strategy. Growth of our revenue depends on the success of all these factors, including our ability to capture market share, attract new customers, develop our strategic partnerships, introduce our solutions and services to new global markets, strengthen and improve our solutions through significant investments in research and developments and successfully consummate and integrate acquisitions. However, such investments and efforts may not be successful, and, even if successful, may negatively impact our short-term profitability with the objective of achieving long-term expansion or growth.

Our success depends on our ability to execute our growth strategy effectively and efficiently. If we are unable to execute our growth strategy successfully and properly manage our investments and expenditures, our results of operations and stock price may be materially adversely affected. In addition, as a result of the execution of our growth strategy, our short-term profitability may be negatively impacted, including as a result of an acquisition.

We cannot guarantee that we will be able to sustain our growth in future years. Our new solutions might not achieve general market acceptance, and therefore might fail to support revenue growth. The failure to implement our growth strategy successfully could affect our ability to sustain growth and could materially adversely affect our results of operations.

**Our business could be materially adversely affected as a result of the risks associated with acquisitions and investments. In particular, we may not succeed in making additional acquisitions or be effective in integrating such acquisitions.**

As part of our growth strategy, we have made a significant number of acquisitions (see Item 5, “Operating and Financial Review and Prospects—Recent Acquisitions” in this annual report for a description of certain recent acquisitions). We expect to continue to make acquisitions and investments in the future as part of our growth strategy. We frequently evaluate the strategic or tactical opportunities available related to complementary businesses, products or technologies. There can be no assurance that we will be successful in making additional acquisitions. Even if we are successful in making additional acquisitions, integrating an acquired business into our operations or investing in new technologies may: (1) result in unforeseen operating difficulties and large expenditures; and (2) absorb significant management attention that would otherwise be available for the ongoing development of our business, both of which may result in the loss of key customers or personnel and expose us to unanticipated liabilities.

Other risks commonly encountered with acquisitions include the effect of acquisitions on our financial and strategic position, the inability to integrate successfully or commercialize acquired technologies and achieve expected synergies or economies of scale on a timely basis and the potential impairment of acquired assets. Further, we may not be able to retain the key employees that may be necessary to operate the businesses we acquire and we may not be able to attract, in a timely manner, new skilled employees and management to replace them.

In recent years, several of our competitors have also completed acquisitions of companies in our markets or in complementary markets. As a result, it may be more difficult for us to identify suitable acquisitions or investment targets or to consummate acquisitions or investments once identified on acceptable terms or at all. If we are not able to execute our acquisition strategy, we may not be able to achieve our growth strategy, may lose market share, or may lose our leadership position in one or more of our markets.

We often compete with others to acquire companies, and such competition may result in decreased availability of, or an increase in price for, suitable acquisition candidates. We also may not be able to consummate acquisitions or investments that we have identified as crucial to the implementation of our strategy for other commercial or economic reasons. Further, we may not be able to obtain the necessary regulatory approvals, including those of competition authorities and foreign investment authorities, in countries where we seek to consummate acquisitions or make investments. For those and other reasons, we may ultimately fail to consummate an acquisition, even if we announce the intended acquisition. Also, even if we do consummate acquisitions, we may do so on less favorable terms and/or may be subject to certain conditions or commitments imposed by such authorities and agencies that may impact post-acquisition integration or have an adverse effect on our business.

We may require significant financing to complete an acquisition or investment, whether through bank loans, raising of debt or otherwise. For example, in connection with our acquisition of inContact, we incurred debt through a term loan and the issuance of exchangeable senior notes in 2017 (the “2017 Notes”) (through our wholly-owned subsidiary NICE Systems, Inc. (“Nice Systems”)), as further described in Item 10, “Material Contracts” in this annual report. In the future, we cannot assure that such financing options will be available to us on reasonable terms, or at all. If we are not able to obtain the necessary financing, we may not be able to consummate a substantial acquisition or investment and execute our growth strategy. In addition, if we consummate one or more significant acquisitions in which the consideration consists, in whole or in part, of our ordinary shares or American Depositary Shares (“ADSs”) representing our ordinary shares, our shareholders may suffer immediate dilution of their interests in us or the value of their interests in us, or may suffer future dilution if we issue exchangeable or convertible debt to finance a significant acquisition..

Future acquisitions or investments may also require us to incur contingent liabilities, amortization expenses related to intangible assets and impairment of goodwill, any of which could have a material adverse effect on our operating results and financial condition. In addition, we may knowingly enter into an acquisition that will have a dilutive impact on our earnings per share.

**If we are unable to develop or maintain our relationships with existing and new distributors and strategic partners, our business and financial results could be materially adversely affected.**

In addition to our direct sales force, we have agreements in place with many distributors, dealers and resellers to market and sell our products and services across the business lines and geographies in which we operate. Our financial results could be materially adversely affected if our agreements with distribution channel partners or our other strategic partners were terminated, if our relationship with our distribution channel partners or our other strategic partners were to deteriorate, or if the financial condition of such partners were to weaken.

The execution of our growth strategy also depends on our ability to create new alliances and enter into strategic partnerships with certain market players. Additionally, as our market opportunities change and we grow our business and expand in certain markets and territories, our dependency on particular distribution channels and strategic partners may increase or we may need to create new strategic partnerships and alliances to address changing market needs. We may not be successful in maintaining, creating or expanding these channels and partnerships, which may negatively impact the development of our business, our growth, gross margins and results of operations. We may also develop dependency on certain strategic partners and vendors, and to the extent that we have to find alternatives in the market, our development efforts and business may be negatively impacted. If we are not successful at creating and maintaining strategic partnerships under favorable terms, we may lose sales opportunities, customers and market share, which may have a material adverse effect on our business and results of operations.

### ***Risks Relating to Our Offerings and Operations***

**Customers’ move to communication channels other than voice could materially and adversely affect the success of our voice solutions.**

Our voice solutions currently generate, and in recent years have generated, a significant portion of our revenues, and we will continue to rely on the sales of our voice solutions and recurring revenues, such as subscription and maintenance services, in the next several years. The trend of enterprise customers moving from voice to other means of communication with the enterprise (such as self-service, e-mail, messaging applications, social media and chat), may result in a reduction in the demand for our voice platform and applications. Although we have expanded our product portfolio to adjust to such changing demands in alternative communication channels, there can be no assurance that the voice solutions market will not decline significantly or that revenues generated from our voice solutions will not be significantly impacted. In addition, changes in regulations could reduce the need for voice recording, which would reduce the demand for our voice recording solutions. Any of the above may have a material adverse effect on our business, financial condition or results of operations.

**Some of our enhanced services are dependent on leased network connectivity lines, and a significant disruption or change in these services could adversely affect our business.**

A significant portion of our cloud software solutions are provided to customers through a dedicated network of equipment we own that is connected through leased network connectivity lines based on Internet protocol with capacity dedicated to us. We also move a portion of our voice long distance service over this dedicated network.

We lease network connectivity lines and space at co-location facilities for our equipment from third-party suppliers. These co-location facilities represent the backbone of our dedicated network. If any of these suppliers is unable or unwilling to provide or, if we desire, expand their current levels of service to us, the services we offer to customers may be adversely affected. We may not be able to obtain substitute services from other providers at reasonable or comparable prices or in a timely fashion. Any resulting disruptions in the services we offer that are provided over our dedicated network would likely result in customer dissatisfaction and adversely affect our operations. Furthermore, pricing increases by any of the suppliers we rely on for our dedicated network could adversely affect our results of operations if we are unable to pass-through pricing increases.

**We rely on multiple internet service providers to provide our customers and their clients with connectivity to our cloud contact center software. While we have multiple redundancies and backups, a failure by these service providers to provide reliable services could cause us to lose customers and subject us to claims for credits or damages.**

We depend on internet service providers to provide uninterrupted and error-free service through their telecommunications networks. We exercise little control over these third-party providers, which increases our vulnerability to problems with the services they provide, including failures relating to internet accessibility in general. When problems occur, it may be difficult to identify the source of the problem. Service disruption or outages, even if not caused by our products or services, may result in loss of market acceptance of our offering and any necessary remedial actions may force us to incur significant costs and expenses.

**We rely on third-party network service providers to originate and terminate public switched telephone network calls, and thus significant failures in these networks could harm our operations.**

For our business in the unified communications market, we leverage the infrastructure of third-party network service providers to provide telephone numbers, public switched telephone network call termination and origination services, and local number portability for our customers rather than deploying our own network throughout the United States. If any of these network service providers ceases operations or otherwise terminate the services that we depend on, the delay in switching our technology to another network service provider, if available, could have an adverse effect on our business, financial condition or operating results.

**Sale of software applications and a multi-product offering may require significant resources and delay our recognition of revenues.**

Sale of software applications and a multi-product offering may be complex, and require, among other things, customization and implementation, and be subject to a prolonged sale process. These factors could result in a delay in revenue recognition and materially adversely affect our results of operations.

A significant portion of our business relies on software applications. We cannot guarantee that our customers' adoption of software applications will meet our expectation and planning. As a result, certain applications may not reach the critical mass in sales and revenues necessary to offset the high cost of developing and maintaining such applications, which could negatively affect our results of operation.

**We rely on software from third parties. If we lose the right to use that software, we will have to spend additional capital to redesign our existing software to adhere to new third-party providers or develop new software.**

We integrate and utilize various third-party software products as components of our products and solutions to enhance their functionality. Our business could be disrupted if functional versions of these software products were either no longer available to us or no longer made available to us on commercially reasonable terms. Also, in the event that any of these third-party vendors is unable to meet our requirements in a timely manner or that our relationship with any such vendor is terminated, we may experience disruption in our business until an alternative source of supply can be obtained. Any disruption, or any other interruption in a vendor's ability to provide components to us, could result in delays in making product deliveries or inability to deliver, which could have a material adverse effect on our business, financial condition and results of operations.

In addition, some of our third-party vendors use proprietary technology and software code that could require significant redesign of our products in the case of a change in vendor. If we lost the right to use such third-party software, we would be required to spend additional capital to either redesign our software to function with alternate third-party software or

develop these components ourselves. As a result, we might be forced to limit the features available in our current or future products and solutions offerings and the commercial release of our products and solutions could be delayed.

**Incorrect or improper use of our products and services or failure to properly provide professional services and maintenance services could result in negative publicity and legal liability.**

Our products and solutions are complex and are deployed in a wide variety of network environments. The proper use of our software requires training and, if our software products are not used correctly or as intended, there may be inaccurate results. Our products may also be intentionally misused or abused by customers who use our products. The incorrect or improper use of our products and solutions or our failure to properly provide professional services and maintenance services, including installation, training, project management, product customizations and consulting to our customers may result in losses suffered by our customers, which could result in negative publicity and product liability or other legal claims against us.

**Undetected errors or malfunctions in our products or services could impact demand for our products and services, and we could face potential product liability claims directly impairing our financial results.**

Despite extensive testing by us and by our customers, our products and services may include errors, defects, failures, bugs or other weaknesses that could result in unanticipated downtime for our customers, product returns, loss of or delay in market acceptance of our products and services, loss of competitive position, or claims by customers or others. In addition, our customers may inadvertently use our services in inadvertent ways that may cause a disruption in services for other customers attempting to use our services. Correcting and repairing such errors, failures or bugs could entail significant costs and could cause interruptions, delays or cessation of our products and services.

As our customers use our services for important aspects of their business, any errors, defects, disruptions in service or other performance problems could significantly damage our customers' businesses and ultimately harm our reputation. As a result, customers could elect not to renew our services or delay or withhold payment to us. We could also lose future sales or customers may make warranty or other liability claims against us, which may harm our business and adversely affect our results. In particular, some of our customers, including financial institutions, may suffer significant damages as a result of a failure of our solutions to perform their functions. The occurrence of any of these events could result in our inability to attract or retain customers, and adversely affect our revenues, financial condition and results of operations.

Although we attempt to limit any potential exposure through quality assurance programs, insurance and contractual terms, we cannot assure that we will be able to eliminate or successfully limit our liability for any failure of our solutions. Any product liability insurance we carry may not be sufficient to cover our losses resulting from any such product liability claims. The successful assertion of one or more large product liability claims against us could have a material adverse effect on our results of operations and financial condition.

**We provide certain service level commitments to our customers, which could cause us to provide credits for future services if the stated service levels are not met for a given period and could adversely impact our revenue.**

Our customer agreements for cloud offerings provide service level commitments. If we are unable to meet the stated service level commitments or suffer extended periods of unavailability for our service, including for reasons related to PaaS providers, we may be contractually obligated to provide these customers with credits for future services, and in some cases refunds, or be liable for penalties. Our revenue could be adversely impacted if we suffer unscheduled downtime that exceeds the allowed downtimes under our agreements with our customers. Any such extended service outages could harm our reputation, revenue and operating results.

***Risks Relating to Information and Product Security and Intellectual Property***

**If our security and cybersecurity measures or those of our third-party hosting facility providers, cloud computing platform providers, or third-party service partners are breached, and unauthorized access is obtained to customers' data, our data or our IT systems, our reputation may be harmed, and we may incur significant legal and financial exposure and liabilities.**

Our products and services involve the storage and transmission of customers' and their end users' proprietary and other sensitive information, including financial information and other personally identifiable information. In addition, some of our customers use our products to compile and analyze highly sensitive or confidential information, and we may encounter

such information or data when we perform service or maintenance functions for our customers. Security breaches could expose us to a risk of loss or unauthorized use of this information, litigation and possible liability. While we have security measures in place, we may from time to time be subject to security breaches, including as a result of intentional misconduct by computer hackers, employee error, malfeasance or otherwise and result in someone obtaining unauthorized access to our IT systems, our customers' data or our data, including our intellectual property and other confidential business information. In addition, while we have internal policies and procedures for employees in connection with performing services involving our customers' confidential information, the perception or fact that any of our employees has improperly handled sensitive information of a customer or a customer's end user could negatively affect our business.

Cyber security attacks are becoming increasingly sophisticated and, in many cases, may not be identified until a security breach occurs. If we fail to recognize and deal with such security attacks and threats and if we fail to update our products and solutions and prevent such threatened attacks in real time to protect our customers' or other parties' sensitive information, whether retained in our systems or by our customers using our products and services, our business and reputation will be harmed. The costs of recognizing and addressing security attacks and threats and updating our products and solutions, may be significant.

Our products and services, including our cloud offerings, may be vulnerable to cyber-attacks, even if they do not contain defects. If there is a successful cyber-attack on one of our products or offerings, even absent a defect or error, it may also result in questions regarding the integrity of our products or services generally, which could cause adverse publicity and impair their market acceptance and could have a material adverse effect on our results or financial condition.

Third parties may attempt to breach our security measures or inappropriately take advantage of our solutions, including our SaaS and hosting services, through computer viruses, electronic break-ins and other disruptions. Additionally, third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as usernames, passwords or other information to gain access to our customers' data, our data or our systems. Furthermore, our customers may authorize third-party technology providers to access their customer data, and some of our customers may not have adequate security measures in place to protect their data that is stored on our services. Because we do not control our customers or third-party technology providers, or the processing of such data by third-party technology providers, we cannot ensure the integrity or security of such transmissions or processing. Malicious third parties may also conduct attacks designed to temporarily deny customers access to our services. Any security breach could result in a loss of confidence in the security of our services, damage our reputation, negatively impact our future sales, disrupt our business and lead to legal liability.

While we maintain insurance coverage to protect us against a broad range of risks, including in relation to security breaches and cyber security attacks, we could still be subject to risks of losses that might be beyond the limits, or outside the scope, of coverage of our insurance and that may limit or prevent indemnification under our insurance policies. This potential insufficiency of insurance coverage could result in an adverse effect on our business, financial position, profit, and cash flows.

**Interruptions or delays in our services through security breaches, failures, or disruptions could impede on our ability to deliver services, harm our reputation and our relationships with customers and partners, adversely affect our results of operation and subject us to liability.**

Any interruptions or delays to our services, whether as a result of error or security breaches, and whether accidental or willful, could harm our reputation and our relationships with customers and partners, subject us to liability, and adversely affect our business and results of operations. In the event of damage or interruption, our insurance policies may not adequately compensate us for any losses that we may incur.

We currently serve our customers using third-party data center hosting facilities and cloud computing platform providers. While we have security measures in place that are aligned with applicable industry standards, they may be breached due to third-party action, including intentional misconduct by computer hackers, employee error, malfeasance or otherwise, and result in someone obtaining unauthorized access to our or our third-party vendors' systems and infrastructure. Moreover, such facilities and platforms may be vulnerable to interruptions resulting from power or network connectivity issues, criminal acts and other misconduct. Occurrence of such damage or interruptions could result in disruptions in our services. Despite precautions such vendors are required to take, the occurrence of such damage or interruption or other unanticipated problems at these facilities, could result in lengthy interruptions in our services, subject us to liability and require the issuance of credits or payment of penalties pursuant to our customer agreements, and/or cause customers to terminate their subscriptions and adversely affect our attrition rates and our ability to attract new customers, all of which would reduce our revenues. Also, we may not be entitled to indemnification or to recoup any such loss or damage from such service providers, which may result in us bearing the burden of any such liability or losses.

In addition, we are also dependent on our computer databases, billing systems and accounting computer programs, network and computer hardware that houses these systems to effectively operate our business and market our services. Our customers may become dissatisfied by any failures of such systems that interrupt our ability to deliver our services. Therefore, significant disruption or failure in the operation of these systems could adversely affect our business and results of operations.

Furthermore, we provide some of our services through computer hardware that we own and that is currently located in third-party web hosting co-location facilities and data centers maintained and operated in various locations globally. Our hosting providers do not guarantee that our customers' access to our solutions will be uninterrupted, error-free or secure. Our operations depend on our providers' ability to protect their and our systems in their facilities against such damage or interruption. Our back-up computer hardware and systems may not have sufficient capacity to recover all data and services in the event of an outage occurring simultaneously at all facilities. In the event that our hosting arrangements are terminated, or there is a lapse of service or accidental or willful damage to such facilities, we could experience lengthy interruptions in our service as well as delays and/or additional expense in arranging new facilities and services. Any or all of these events could cause interruptions in our services.

**We may face risks relating to inadequate intellectual property protection and liability resulting from infringement by our products or solutions of third-party proprietary rights.**

Our success is dependent, to a significant extent, upon our proprietary technology. We currently hold 381 U.S. patents and 64 patents issued in additional countries covering substantially the same technology as the U.S. patents. We have 130 patent applications pending in the United States and other countries. We rely on a combination of patent, trade secret, copyright and trademark law, together with non-disclosure and non-competition agreements, as well as third-party licenses to establish and protect the technology used in our systems. However, we cannot assure that such measures will be adequate to protect our proprietary technology, that competitors will not develop products with features based upon, or otherwise similar to our systems, that third-party licenses will be available to us or that we will prevail in any proceeding instituted by us in order to enjoin competitors from selling similar products. In most of the areas in which we operate, third parties also have patents which could be found applicable to our technology and products. Such third parties may include competitors, as well as large companies, which heavily invest in their patent portfolios, regardless of their actual field of business. Although we believe that our products and solutions do not infringe upon the proprietary rights of third parties, we cannot assure that one or more third parties will not make a claim or that we will be successful in defending such claim.

We generally distribute our software products under software license agreements that restrict the use of our products by terms and conditions prohibiting unauthorized reproduction or transfer of the software products. However, effective copyrights and other intellectual property rights protection may be inadequate or unavailable to us in every country in which our software products are available, and the laws of some foreign countries may not be as protective of intellectual property rights as those in the United States and Israel. Consequently, we may be unable to prevent our proprietary technology from being exploited abroad, which could affect our ability to expand to international markets or require costly efforts to protect our technology. Policing the unauthorized use of our products, trademarks and other proprietary rights is expensive, difficult and, in some cases, impossible. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Such litigation could result in substantial costs and diversion of management resources, either of which could harm our business. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property.

From time to time third parties allege or claim patent infringements. In defending ourselves against any such claims or actions we could be subject to substantial costs and diversion of management resources.

In addition, to the extent we are not successful in defending such claims, we may be subject to injunctions with respect to the use or sale of certain of our products or to liabilities for damages and may be required to obtain licenses which may not be available on reasonable terms. Any of these may have a material adverse impact on our business or financial condition.

**We face risks relating to our use of certain "open source" software tools.**

Certain of our software products contain a limited amount of open source code and we may use more open source code in the future. In addition, certain third-party software that we embed in our products contains open source code. Open

source code is code that is covered by a license agreement that permits the user to liberally use, copy, modify and distribute the software without cost, provided that users and modifiers abide by certain licensing requirements. The original developers of the open source code provide no warranties on such code.

As a result of our use of open source software, we could be subject to suits by parties claiming ownership of what we believe to be open source code and we may incur expenses in defending claims that we did not abide by the open source code license. In addition, third-party licensors do not provide intellectual property protection with respect to the open source components of their products, and therefore we may not be indemnified by such third-party licensors in the event that we or our customers are held liable in respect of the open source software contained in such third-party software. If we are not successful in defending against any such claims that may arise, we may be subject to injunctions and/or monetary damages or be required to remove the open source code from our products. Such events could disrupt our operations and the sales of our products, which would negatively impact our revenues and cash flow.

Moreover, under certain conditions, the use of open source code to create derivative code may obligate us to make the resulting derivative code available to others at no cost. The circumstances under which our use of open source code would compel us to offer derivative code at no cost are subject to varying interpretations. If we are required to publicly disclose the source code for such derivative products or to license our derivative products that use an open source license, our previously proprietary software products may be available to others without charge. If this happens, our customers and our competitors may have access to our products without cost to them, which could harm our business.

We monitor our use of such open source code to avoid subjecting our products to conditions we do not intend. The use of such open source code, however, may ultimately subject some of our products to unintended conditions so that we are required to take remedial action that may divert resources away from our development efforts.

### ***Risks Relating to Regulatory Environment***

#### **Privacy concerns, legislation and other regulations may limit the use and adoption of our offering, adversely affect our business, increase compliance costs and expose us to increased liability.**

Governments and other international organizations in various jurisdictions around the world (such as the legislative and regulatory institutions of the European Union) are adopting new laws, regulations and guidelines addressing data privacy and the processing (collection, storage, use, etc.) of personal information. These laws, regulations and guidelines may be inconsistent across jurisdictions and are subject to evolving and differing (sometimes conflicting) interpretations. In some cases, different sets of data privacy laws and regulations, such as the European Union's General Data Protection Directive ("GDPR"), Israeli Privacy Law and the regulations promulgated thereunder (the "Israeli Privacy Law"), local laws and regulations and certain state laws in the U.S. on privacy, data and related technologies, such as the California Consumer Privacy Act ("CCPA"), also govern the processing of personal information. While we have invested in readiness to comply with applicable requirements, these and other requirements slow the pace at which we close sales or procurement transactions, restrict our ability to store and process data or, in some cases, impact our ability to offer some of our solutions and services for use in relation to data subjects that reside in certain locations or our customers' ability to deploy our solutions globally. Compliance with these regulatory requirements may be onerous, time consuming and expensive, especially where these requirements are inconsistent from jurisdiction to jurisdiction or where the jurisdictional reach of certain requirements is not clearly defined or seeks to reach across national borders.

Should we, or any party on our behalf, fail to comply with privacy legislation or procedures or other agreed security measures, we may incur substantive civil liability to government agencies, customers, shareholders and individuals whose privacy may have been compromised. As privacy legislation is increasing globally, and more government agencies are granted with authority to fine organizations for non-compliance with applicable data privacy laws and regulations, and require companies to take certain steps to remediate such non-compliance, we may find ourselves forced to pay damages penalties, fines, remediation costs, reimbursement of customer costs and other significant expenses due to our (or our vendors') non-compliance with data privacy laws and regulations. Moreover, even the perception that the privacy of personal information that we process or control is not adequately protected or does not meet regulatory requirements could damage our reputation, inhibit sales of our products or services and could limit adoption of our products or services, including our cloud-based solutions.

In addition to legal and regulatory requirements, we are contractually obligated to certain customers, and may in the future be expected by prospective customers, to meet certain information security certifications or other standards established



by third parties, such as the ISO 27001:2013 on information security management certification. If we are unable to obtain or maintain these certifications or meet these standards, it could harm our business and subject us to liability.

**Industry-specific regulation and other requirements and standards are evolving and unfavorable industry-specific laws, regulations, interpretive positions or standards could harm our business.**

Our customers and potential customers conduct business in a variety of industries, including financial services and telecommunications. Regulators in certain industries have adopted and may in the future adopt regulations or interpretive positions regarding the use of cloud computing and other outsourced services. The costs of compliance with, and other burdens imposed by, industry-specific laws, regulations and interpretive positions may limit our customers' use and adoption of our services and reduce overall demand for our services. Compliance with these regulations may also require us to devote greater resources to support certain customers, which may increase costs and lengthen sales cycles. For example, some financial services regulators have imposed guidelines for use of cloud computing services that mandate specific controls or require financial services enterprises to obtain regulatory approval prior to outsourcing certain functions. If we are unable to comply with these guidelines or controls, or if our customers are unable to obtain regulatory approval to use our services where required, our business may be harmed. If in the future we are unable to achieve or maintain industry specific certifications or other requirements or standards relevant to our customers, it may harm our business and adversely affect our results.

Our revenues would be adversely affected if we fail to adapt our products and services to changes in rules and regulations applicable to the business of certain customers, such as rules and regulations regarding securities trading, broker sales compliance and anti-money laundering, which could have an impact on their need for our products and services.

In certain industries in which we operate, there may be regulations or guidelines for use of SaaS, hosting and cloud-based services that mandate specific controls or require enterprises to obtain certain approvals prior to outsourcing certain functions. In addition, we may be limited in our ability to transfer or outsource business to certain jurisdictions and may be limited in our ability to undertake development activity in certain jurisdictions, which may impede on our efficiency and adversely affect our business results of operations.

**Changes in the legal and regulatory environment could materially and adversely affect our business, results of operations and financial condition.**

Our business, results of operations and financial condition could be materially and adversely affected if laws, regulations or standards relating to our business and products, us or our employees (including labor laws and regulations) are changed or new ones are implemented. Such implemented laws and regulations include requirements in the United States, Europe and other territories in relation to data privacy and protection, anti-bribery and anti-corruption, foreign investment, import and export, labor, tax and environmental and social issues.

While we attempt to prepare in advance for these new initiatives and standards, we cannot assure that we will be successful in our efforts, that such changes will not negatively affect the demand for our products and services, or that our competitors will not be more successful or prepared than us.

Alternatively, any substantial changes resulting in a reduction in the implementation or elimination of rules and regulations that apply to a certain sector of our business, such as deregulation in the area of compliance, could result in a decrease in demand by customers, which could materially and adversely affect our business and results of operations.

***Risks Relating to Our Financial Condition***

**Our quarterly results may be volatile at times, which could cause us to miss our forecasts.**

We generally provide forecasts as to expected future revenues in the coming fiscal quarters and fiscal year. Our revenue and operating results can vary and have varied in the past, sometimes substantially, from one quarter to another. These forecasts are based on management estimation and expectations, our then-existing backlog and an analysis of assumptions and assessments that may not materialize or end up being inaccurate. We may not meet our expectations or those of industry analysts in a particular future quarter. Our quarterly operating results may be subject to significant fluctuations due to the following factors: the timing and size of customer orders, delays in issuance or shifting of customer orders (as often happens when customers postpone their buying decisions to the end of the budgetary year), variations in distribution

channels, mix of products and services, new product introductions, competitive pressures and general economic conditions. It is difficult to predict the exact mix of products and services for any period, as well as within the product category between interaction-related platforms and related applications and transactional related platforms and applications. Changes in the mix of products and services across our different business lines may significantly impact our revenues. Further, the period of time from order to delivery of our platforms and applications is short, and therefore our backlog for such products and cloud solutions is currently, and is expected to continue to be, small and substantially unrelated to the level of sales in subsequent periods.

In addition, we derive a substantial portion of our sales through indirect channels, making it more difficult for us to predict revenues because we depend partially on estimates of future sales provided by third parties. Changes in our arrangements with our network of channel partners or in the products they offer, such as the introduction of new support programs for our customers, which combines support from our channel partners with back-end support from us, could affect the timing and volume of orders. Furthermore, our expense levels are based, in part, on our expectations as to future revenues. If our revenue levels are below expectations, our operating results are likely to be adversely affected, as most of our expenses are not variable in the short term.

Fluctuations in our results of operations may result from, among other things, our ability to retain and increase sales to existing customers, attract new customers and satisfy our customers' requirements, the timing and success of new product and solution introductions and enhancements or product initiation by our competitors, the purchasing and budgeting cycles of our customers and general economic, industry and market conditions. Additionally, as a high percentage of our expenses, particularly employee compensation and other overhead costs, are relatively fixed, a variation in the level of sales, especially at or near the end of any quarter, may have a material adverse impact on our quarterly operating results.

While seasonality and other factors mentioned above are common in the software and technology industry, this pattern should not be considered a reliable indicator of our future revenue or financial performance. Many other factors, including general economic conditions, may also have an impact on our business and financial results.

**We face foreign exchange currency risks.**

Exchange rate fluctuations affect our operations. We experience risks from fluctuations in the value of the NIS, EUR, GBP, INR and other currencies compared to the U.S. dollar, the functional currency in our financial statements. A significant portion of the expenses associated with our Israeli and Indian operations, including personnel and facilities related expenses, are incurred in NIS and INR, respectively, whereas most of our business and revenues are generated in dollars, and to a certain extent, in GBP, EUR and other currencies. If the value of the dollar decreases against these foreign currencies, our earnings may be negatively affected. As a result, we may experience an increase in the costs of our operations, as expressed in dollars, which could adversely affect our earnings.

We monitor foreign currency exposure and may use various instruments to preserve the value of sales transactions, expenses and commitments, however this cannot assure our full protection against risks of currency fluctuations that could affect our financial results. As part of our efforts to mitigate these risks, we use foreign currency hedging mechanisms, which may be ineffective in protecting us against adverse currency fluctuations and can also limit opportunities to profit from exchange rate fluctuations that would otherwise be favorable. For information on the market risks relating to foreign exchange, please see Item 11, "Quantitative and Qualitative Disclosures about Market Risk" in this annual report.

**We currently benefit from local government programs as well as international programs and local tax benefits that may be discontinued or reduced, or may result in liabilities if underlying conditions are not met.**

We derive and expect to continue to derive significant benefits from various programs, including Israeli tax benefits relating to our "Preferred Technology Enterprise" programs, and certain other grants and tax benefits, including grants from the Israel Innovation Authority (formerly known as the Office of the Chief Scientist of the Ministry of Economy) of the State of Israel (the "IIA"), for research and development.

To be eligible for tax benefits as a Preferred Technology Enterprise, we must continue to meet certain conditions. While we believe that we have met and continue to meet the conditions that entitle us to previously obtained Israeli tax benefits, there can be no assurance that we will in the future or that the Israeli Tax Authorities will agree.

To be eligible for IIA-related grants and benefits, we must continue to meet certain conditions, including conducting the research, development, manufacturing of products developed with such IIA grants in Israel, and providing the IIA with an undertaking that the know-how to be funded, and any derivatives thereof, is wholly-owned by us, upon its creation. In addition, we are prohibited from transferring to third parties the know-how developed with these grants without the prior approval of a governmental committee and, possibly, paying a fee. See Item 4, “Information on the Company—Research and Development” in this annual report, for additional information about IIA programs.

If the local and international grants, programs and benefits available to us or the laws, rules and regulations under which they were granted are eliminated or their scope is further reduced, or if we fail to meet the conditions of existing grants, programs or benefits and are required to refund grants or tax benefits already received (together with interest and certain inflation adjustments) or fail to meet the criteria for future Israeli Preferred Technology Enterprises, our business, financial condition and results of operations could be materially adversely affected.

**Additional tax liabilities resulting from our global operations could materially adversely affect our results of operations and financial condition.**

As a global corporation, we are subject to income, non-income and transactional tax regimes in Israel, the United States, India and various foreign jurisdictions, which are unsettled and may be subject to significant change. Our effective tax rate could be materially affected by changes in tax rulings, tax laws, regulations, administrative practices, principles, applicability of special tax regimes, or changes in interpretations of existing tax laws, including changes to the global tax framework, in the jurisdictions in which we do business. Such changes could come about as a result of economic, political, and other conditions. Additionally, our effective tax rate could be affected by changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuations of our deferred tax assets and liabilities, tax implications of acquisitions, expansion into new territories, intercompany transactions, changes in foreign currency exchange rates, changes in our stock price and uncertain tax positions. Although we believe that our provision for income taxes and our tax estimates are reasonable, tax authorities may disagree with certain positions we have taken. From time to time, we are subject to income and other tax audits in various jurisdictions, the timing of which is unpredictable. We regularly assess the likelihood of an adverse outcome resulting from these examinations to determine the adequacy of our tax accruals. While we believe we comply with applicable tax laws and have adequate balance sheet reserves related to tax positions, there can be no assurance that a governing tax authority will not have a different interpretation of the law and assess us with additional taxes. If we are assessed additional taxes, it could have a material adverse effect on our results of operations and financial condition.

In recent years we have seen tax law and regulatory changes in the U.S., EU, UK, India and other jurisdictions, including changes that may be impacted as a result of tax policy recommendations from organizations such as the Organization for Economic Co-operation and Development (“OECD”). Such legislative changes in one or more jurisdictions in which we operate may require us to change the manner in which we operate our business, may have implications on our tax liability and have a material adverse effect on our results of operations and financial condition.

In October 2015, the OECD published its final package of measures for reform of the international tax rules as a product of its Base Erosion and Profit Shifting (“BEPS”) initiative, which was endorsed by the G20 finance ministers. Many of the initiatives in the BEPS package required and resulted in specific amendments to the domestic tax legislation of various jurisdictions and to existing tax treaties. We continuously monitor these developments. Although many of the BEPS measures have already been implemented or are currently being implemented globally (including, in certain cases, through adoption of the OECD’s ‘multilateral convention’ to effect changes to tax treaties which entered into force on July 1, 2018 and through the EU’s ‘Anti-Tax Avoidance’ Directives), it is still difficult in some cases to assess to what extent these changes would impact our tax liabilities in the jurisdictions in which we conduct our business or to what extent they may impact the way in which we conduct our business or our effective tax rate due to the unpredictability and interdependency of these potential changes. Further, for the past several years, the OECD has had a specific focus on the taxation implications of e-commerce business, generally referred by the OECD as the “digital economy.” In the fourth quarter of 2019, the OECD released details on its proposed approach which would, among other changes, create a new allocation of taxing rights between jurisdictions for certain “digital economy” income, not necessarily based on traditional nexus concepts nor on the “arm’s length principle”. In October 2020, the OECD hosted a public consultation with representatives of over 135 countries, however, there is a lack of consensus agreement among the key members to the latest proposal. The OECD’s objective is to reach a consensus for an agreement by mid-2021.

However, though there is a wide support for an international unified solution, the delay in reaching a full consensus on an executable plan has resulted in individual jurisdictions legislating digital tax provisions in an uncoordinated and unilateral manner, and further result in greater or even double taxation that companies may not have sufficient means to

remedy. For example, a number of jurisdictions, including the UK, India and some EU countries, have already adopted or formally proposed legislation to effect the taxation of certain digital and e-commerce business based on differing criteria and metrics. Further, on January 14, 2021, the European Commission published a roadmap for the introduction of a unified digital levy, which is expected to become effective on January 1, 2023.

Efforts to alleviate this increased tax burden will increase the cost of structuring and compliance as well as the cost of doing business internationally. It is not yet clear to what extent these digital tax provisions would apply to us. Any changes to the taxation of our international activities may increase our worldwide effective tax rate and adversely impact our financial position and results of operations. Further, the prospective taxation by multiple jurisdictions of digital and e-commerce businesses could subject us to exposure to withholding, sales, VAT and/or other transaction taxes, in such jurisdictions where we currently or in the future may be required to report taxable transactions. The imposition of new laws requiring the registration for, collection of, and payment of such taxes, could result in substantial tax liabilities, create increased administrative burdens and costs, require us to change the manner in which we operate or otherwise adversely affect our business and results of operations.

The U.S. Tax Cuts and Jobs Act of 2017 (the “U.S. Tax Reform”), significantly changed how corporate business entities are taxed in the U.S. The application of the U.S. Tax Reform is subject to uncertainties. The U.S. Tax Reform includes certain provisions that have applied to us and that may change the valuations of our deferred tax assets and liabilities and may increase our overall tax liabilities. We have implemented certain steps to optimize our global tax structure, but there can be no assurance that our global tax liabilities would not increase as a result of the U.S. Tax Reform. In addition, due to the uncertainty involved in applying certain provisions of the U.S. Tax Reform to our group, we made reasonable estimates for the effects on our financial statements. The U.S. Treasury Department, the Internal Revenue Service and other standards-setting bodies may issue guidance on how the provisions of the U.S. Tax Reform will be applied that is different from our interpretation. The U.S. Tax Reform requires complex computations not previously required or produced, and significant judgments and assumptions in the interpretation of the law were made in producing our provisional estimates. As we continue our analyses, and interpret any additional guidance, it is possible that the final impact may differ from our current assessment of our business and effective income tax rate, and our profitability may be adversely affected.

In addition, in response to significant market volatility and disruptions to business operations resulting from the global spread of COVID-19, legislatures and taxing authorities in many jurisdictions in which we operate may propose changes to their tax rules. These changes could include modifications that have temporary effect, and more permanent changes. These potential new rules could have an impact on us, our long-term tax planning and our effective tax rate.

**We might recognize a loss with respect to our financial investments.**

We invest most of our cash through a variety of financial investments. If the obligor of any of our financial investments defaults or undergoes reorganization in bankruptcy, we may lose a portion of such investment and our assets and income may decrease. In addition, a downturn in the credit markets or the downgrading of the credit rating of our investments could result in a reduction in the market value of our holdings and reduce the liquidity of our investments, which could require us to recognize a loss at the time of liquidation and would adversely affect our assets and income.

**Our debt could adversely affect our financial condition and impact our business needs and plans.**

We incurred indebtedness pursuant to the issuance of the Notes (as defined in “Item 10. Additional Information - Material Contracts - Notes and Indenture”). The debt incurred could have adverse consequences to our financial condition and business. For example, it could:

- increase our vulnerability to general adverse economic and industry conditions;
- make it more difficult for us to satisfy our other financial obligations;
- make it more difficult for us to make strategic acquisitions;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our debt, thereby limiting the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;

- limit to some extent our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- place us at a competitive disadvantage compared to our competitors that have less debt and comparable resources;
- limit to some extent our ability to borrow additional funds as needed;
- restrict our ability to prepay the Notes or to pay cash upon exchanges of the Notes; and
- limit to some extent our ability to pay dividends, redeem stock or make other distributions.

Our ability to fund planned capital expenditures and to maintain sufficient working capital will depend on our ability to continue to generate cash in the future. This is subject to general economic, financial, competitive, business, regulatory and other factors that may be beyond our control. We cannot assure that our business will continue to generate sufficient cash flow from operations or that future financing will be available to us in an amount sufficient to enable us to service our debt, or to fund our other liquidity needs or execute on our strategic plans.

If our cash flow and capital resources are insufficient to allow us to make scheduled payments on our debt, we may need to reduce or delay capital expenditures, sell assets, seek additional capital or restructure or refinance all or a portion of our debt on or before the maturity thereof, any of which could have a material adverse effect on our business, financial condition or results of operations. If we are unable to generate sufficient cash flow to repay our debt on favorable terms, it could significantly adversely affect our financial condition and the value of our outstanding debt. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition. A failure to comply with the provisions of our outstanding debt could result in events of default under such instruments, which could permit acceleration of our Notes.

Any required prepayment or exchange of our Notes, including as a result of an optional redemption, event of default or fundamental change triggering such right, would lower our current cash on hand such that we would not have those funds available for use in our business, which could adversely affect our operating results.

**The accounting method for convertible debt securities that may be settled in cash, such as the Notes, may have a material effect on our reported financial results.**

Under Accounting Standards Codification 470-20, Debt with Conversion and Other Options, an entity must separately account for the liability and equity components of convertible or exchangeable debt instruments (such as the Notes) that may be settled entirely or partially in cash upon exchange in a manner that reflects our economic interest cost. The effect of ASC 470-20 on the accounting for the Notes is that the equity component is required to be included in the additional paid-in capital section of shareholders' equity on our consolidated balance sheet, and the value of the equity component would be treated as original issue discount for purposes of accounting for the debt component of the Notes. As a result, we will be required to record a greater amount of non-cash interest expense in current periods presented as a result of the amortization of the discounted carrying value of the Notes to their principal amount over the term of the Notes. We will report lower net income (or greater net loss) in our financial results because ASC 470-20 requires interest to include both the current period's amortization of the debt discount and the instrument's coupon interest, which could adversely affect our reported or future financial results.

For our 2017 Notes, we have the intent and ability to settle the convertible debt in cash and as such, the potential issuance of shares related to the 2017 Notes does not affect diluted shares (prior to adoption of ASU 2020-06). If we elect to settle the 2017 Notes in ADSs, according to the treasury stock method, the transaction is accounted for in the diluted share count, as if the number of ADSs that would be necessary to settle the Notes are deemed issued. We cannot be sure that we will be able to continue to demonstrate the ability or intent to settle the 2017 Notes in cash.

For our 2020 Notes, we have the intent and ability to settle the convertible debt principal amount in cash and as such, the potential issuance of shares related to the 2020 Notes principal amount does not affect diluted shares. If we elect to settle the 2020 Notes in ADSs, according to the treasury stock method, the transaction is accounted for in the diluted share count, as if the number of ADSs that would be necessary to settle the Notes are deemed issued. We cannot be sure that we will be able to continue to demonstrate the ability or intent to settle the principal amount of the 2020 Notes in cash.

Prior to the adoption of ASU 2020-06, the 2020 Notes may have a dilutive effect on our earnings per share to the extent the stock price exceeds the conversion price of the Notes as we only have the intent and ability to settle the principal amount in cash. In August 2020, the FASB issued ASU 2020-06, which simplifies the guidance on the issuer's accounting for convertible debt instruments by removing the separation models for (1) convertible debt with a cash conversion feature and (2) convertible instruments with a beneficial conversion feature. As a result, issuers will not separately present in equity an embedded conversion feature in such debt. Instead, they will account for a convertible debt instrument wholly as debt, unless certain other conditions are met. The elimination of these models will reduce reported interest expense and increase reported net income for issuers that have issued a convertible instrument that was within the scope of those models before the adoption of ASU 2020-06. ASU 2020-06 also requires that the effect of potential share settlement be included in the diluted earnings per share calculation when an instrument may be settled in cash or share. This amendment removes current guidance that allows an issuer to rebut this presumption if it has a history or policy of cash settlement as we did for the 2017 and 2020 Notes. Furthermore, ASU 2020-06 requires the application of the "if-converted" method for calculating diluted earnings per share and that the treasury stock method will no longer be available. The adoption of ASU 2020-06, that will become effective in January 2022, may adversely affect our diluted earnings per share.

**If we fail to maintain effective internal controls over financial reporting and operations, it could have a material adverse effect on our business, operating results, and the price of our ordinary shares and ADSs.**

Effective internal controls are necessary for us to provide reliable financial reports and prepare consolidated financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles and U.S. securities laws, as well as to effectively prevent material fraud. Because of inherent limitations, even effective internal control over financial reporting may not prevent or detect every misstatement. In addition, if we fail to maintain the adequacy of our internal controls, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal control over financial reporting and operations. Furthermore, as we grow our business or acquire businesses, our internal controls may become more complex and we may require significantly more resources to ensure they remain effective. In addition, we may identify material weaknesses or significant deficiencies in our internal control over financial reporting. Failure to maintain effective internal control over financial reporting and operations could result in investigation or sanctions by regulatory authorities and could have a material adverse effect on our business and operating results, investor confidence in our reported financial information, and the market price of our ordinary shares and ADSs.

**Current and future accounting pronouncements and other financial reporting standards and principles might have a significant impact on our financial position and negatively impact our financial results.**

We prepare our consolidated financial statements in accordance with U.S. GAAP. These principles are subject to interpretation by the SEC and various bodies formed to interpret and create appropriate accounting principles. A change in these principles can have a significant effect on our reported results and may even retroactively affect previously reported transactions. Additionally, the adoption of new or revised accounting principles may require that we make significant changes to our systems, processes and controls. Changes resulting from these new standards may result in materially different financial results and may require that we change how we process, analyze and report financial information and that we change financial reporting controls.

We regularly monitor our compliance with applicable financial reporting standards and review new pronouncements and drafts thereof that are relevant to us. As a result of new standards, changes to existing standards and changes in their interpretation, we might be required to change our accounting policies.

This could lead to risks associated with our ability to react in a timely manner to new accounting pronouncements and financial reporting standards and unpredictable changes in interpretation of standards. Any one or more of these events could have an adverse effect on our business, financial position, and profit.

***Risks Relating to our Securities***

**The market price of each of our ADSs, ordinary shares and the Notes is volatile and may decline.**

Numerous factors, some of which are beyond our control, may cause the market price of our ADSs, ordinary shares and the Notes to fluctuate significantly. These factors include, among other things:

- Quarterly variations in our operating results;

- Changes in expectations as to our future financial performance, including financial estimates by securities;
- Perceptions of our company held by analysts and investors;
- Additions or departures of key personnel;
- Announcements related to dividends;
- Development of or disputes concerning our intellectual property rights;
- Announcements of technological innovations;
- Customer orders or new products and services by us or our competitors;
- Acquisitions or investments by us or by our competitors and partners;
- The exchangeability of the Notes for ADSs;
- Hedging or arbitrage trading activity involving ADSs by holders of the 2017 Notes;
- Modification of hedge positions by counterparties to the hedge transactions we entered into simultaneously with the issuance of the Notes, including the possible entry into or unwinding of derivative transactions with respect to the ADSs or the purchase or sale of the ADSs or other NICE securities in secondary market transactions;
- Currency exchange rate fluctuations;
- Earnings releases by us, our partners or our competitors;
- General financial, economic and market conditions;
- Political changes and unrest in regions, natural catastrophes;
- Market conditions in the industry and the general state of the securities markets, with particular emphasis on the technology and Israeli sectors of the securities markets; and
- General stock market volatility.

**Our ADSs and ordinary shares are traded on different markets and this may result in price variations.**

Our ADSs have been listed on The NASDAQ Stock Market since 1996 and our ordinary shares have been traded on the Tel Aviv Stock Exchange, or the “TASE,” since 1991. Trading in our securities on these markets takes place in different currencies (our ADSs are traded in U.S. dollars and our ordinary shares are traded in New Israeli Shekels), and at different times (resulting from different time zones, different trading days and different public holidays in the United States and Israel). As a result, the trading prices of our securities on these two markets may differ due to these factors. In addition, any decrease in the price of our securities on one of these markets could cause a decrease in the trading price of our securities on the other market.

**Substantial future sales or the perception of sales of our ADSs or ordinary shares, or the exchange, or conversion of a substantial amount of Notes, or perception thereof, could cause the price of our ADSs or ordinary shares to decline.**

Sales of substantial amounts of our ADSs or ordinary shares in the public market, or the perception that these sales could occur, could adversely affect the price of our ADSs and ordinary shares and could impair our ability to raise capital through the sale of additional shares. Such sales may also make it more difficult for us to sell equity or equity-related securities in the future at a time and at a desirable price.

Additionally, the issuance of ADSs upon future exchanges or conversions of the Notes for ADSs, or the perception that these exchanges or conversions may occur, could dilute shareholders and reduce the market price of the ordinary shares or ADSs. This could also impair NICE's abilities to raise additional capital through the sale of its securities.

**The market prices of the ordinary shares and the ADSs, which may fluctuate significantly, will directly affect the market price for the Notes.**

We expect that the market price of the ordinary shares and the ADSs will affect the market price of the Notes. This may result in greater volatility in the market price of the Notes than would be expected for non-exchangeable notes. The market price of the ordinary shares and the ADSs will likely fluctuate in response to a number of factors, many of which are beyond our control. Holders who receive ADSs upon exchange of the Notes will therefore be subject to the risk of volatility and depressed prices of ADSs. In addition, we expect that the market price of the Notes will be influenced by yield and interest rates in the capital markets, our creditworthiness and the occurrence of certain events affecting us that do not require an adjustment to the exchange rate. Fluctuations in yield rates in particular may give rise to arbitrage opportunities based upon changes in the relative values of the Notes and ADSs. Any such arbitrage could, in turn, affect the market prices of ADSs and the Notes.

**We have not registered, and do not currently intend to register, the 2020 Notes, the ADSs into which the 2020 Notes are exchangeable or convertible or the ordinary shares represented thereby. There are restrictions on noteholders' ability to transfer or resell the 2020 Notes, ADSs and the underlying ordinary shares.**

The 2020 Notes (as defined in "Item 10. Additional Information - Material Contracts - Notes and Indenture"), the ADSs deliverable upon exchange or conversion of the 2020 Notes and the ordinary shares represented thereby were offered and sold pursuant to an exemption from registration under the Securities Act and applicable state securities laws, and we have not registered, and do not currently intend to register, the 2020 Notes, the ADSs or such ordinary shares. Therefore, 2020 noteholders may transfer or resell the 2020 Notes only in a transaction registered under or exempt from the registration requirements of the Securities Act and applicable state securities laws.

**The fundamental change and make-whole fundamental change provisions of the Notes may delay or prevent an otherwise beneficial attempt to acquire our company.**

The fundamental change prepayment rights of the noteholders under the Notes, which would allow noteholders to require that we prepay all or a portion of their Note upon the occurrence of a fundamental change, and the provisions under the Notes requiring an increase to the exchange rate for exchanges in connection with a make-whole fundamental change, in certain circumstances may delay or prevent an acquisition of NICE that would otherwise be beneficial to our shareholders.

**It may be difficult to enforce a U.S. judgment against us and our officers and directors in Israel or the United States, or to serve process on our officers and directors.**

Service of process upon us, our Israeli subsidiaries, directors and officers, and Israeli advisors, if any, named in this annual report, may be difficult to obtain within the United States. Additionally, it may be difficult to enforce civil liabilities under U.S. federal securities law in original actions instituted in Israel. Israeli courts may refuse to hear a claim based on a violation of U.S. securities laws because Israel is not the most appropriate forum to bring such a claim. In addition, even if an Israeli court agrees to hear a claim, it may determine that Israeli law and not U.S. law is applicable to the claim. If U.S. law is found to be applicable, the content of applicable U.S. law must be proved as a fact, which can be a time-consuming and costly process. Certain matters of procedure will also be governed by Israeli law. There is little binding case law in Israel addressing these matters.

**Provisions of Israeli law may delay, prevent or otherwise impede a merger with, or an acquisition of, our company, which could prevent a change of control, even when the terms of such a transaction are favorable to us and our shareholders.**

Israeli corporate law regulates mergers, requires tender offers for acquisitions of shares above specified thresholds, establishes a high ownership threshold to squeeze out minority shareholders in a full tender offer, requires special approvals for transactions involving directors, officers or significant shareholders and regulates other matters that may be relevant to these types of transactions.



Furthermore, Israeli tax considerations may make potential transactions unappealing to us or to our shareholders whose country of residence does not have a tax treaty with Israel exempting such shareholders from Israeli tax. These and other similar provisions could delay, prevent or impede an acquisition of us or our merger with another company, even if such an acquisition or merger would be beneficial to us or to our shareholders.

See Item 10, “Additional Information—Mergers and Acquisitions” in this annual report, for additional discussion regarding anti-takeover effects of Israeli law.

### ***General Risk Factors***

#### **Conditions and changes in the local and global economic environments may adversely affect our business and financial results.**

Adverse economic conditions in markets or regions in which we operate can harm our business. Our results of operations can be affected by adverse changes in local and global economic conditions, slowdowns, recessions and economic instability. To the extent that our business suffers as a result of such unfavorable economic and market conditions, including a potential downturn as a result of COVID-19 pandemic (as further described below), our operating results may be materially adversely affected. In particular, enterprises may reduce spending in connection with their contact centers, financial institutions may reduce spending in relation to trading floors and operational risk management (as IT-related capital expenditures are typically lower priority in times of economic slowdowns), and our customers may prioritize other expenditures over our solutions. In addition, enterprises’ ordering and payment patterns are influenced by market conditions and could cause fluctuations in our quarterly results. If any of the above occurs, and our customers or partners significantly reduce their spending or significantly delay or fail to make payments to us, our business, results of operations, and financial condition would be materially adversely affected.

Disruption to the global economy could also result in a number of follow-on effects in addition to a slow-down in our business, including a possible (i) negative impact on our liquidity, financial condition and share price, which may impact our ability to raise capital in the market, obtain financing and secure other sources of funding in the future on terms favorable to us, and (ii) decrease in the value of our assets that are deemed to be other than temporary, which may result in impairment losses.

#### **We face risks relating to our global operations.**

We sell our products and solutions throughout the world and intend to continue to increase our penetration of international markets. Our future results could be materially adversely affected by a variety of factors relating to international transactions, including:

- governmental controls and regulations, including import or export license requirements, trade protection measures and changes in tariffs;
- compliance with applicable international and local laws, regulations and practices, including those related to trade compliance, anticorruption, data privacy and protection, tax, labor, employee benefits, customs, currency restrictions and other requirements;
- disruptions in business operations of our customers due to local or national restrictions implemented to combat COVID-19;
- fluctuations in currency exchange rates;
- longer payment cycles in certain countries in our geographic areas of operations;
- potential adverse tax consequences, variations in effective income tax rates and tax policies among countries where we conduct business, including the complexities of foreign value added tax systems;
- political instability, armed conflicts, terrorism and security concerns;
- reduced or limited protection for intellectual property rights in some countries; and

- general difficulties in managing our global operations.

Changes in the political or economic environments, business spending, and the availability and cost of capital in the countries in which we operate, especially in Israel and the U.S., including the impact of such changes on foreign currency rates and interest rates, and the impact of economic conditions on underlying demand for our products and services, could have a material adverse effect on our financial condition, results of operations and cash flow.

**As a result of our global presence, especially in emerging markets, we face increasing challenges that could adversely impact our results of operations, reputation and business.**

In light of our global presence, especially in emerging markets such as those in Asia, Eastern Europe and Latin America, we face a number of challenges in certain jurisdictions that provide reduced legal protection, including poor protection of intellectual property, inadequate protection against crime (including bribery, corruption and fraud) and breaches of local laws or regulations, unstable governments and economies, governmental actions that may inhibit the flow of goods and currency, challenges relating to competition from companies that already have a local presence in such markets and difficulties in recruiting sufficient personnel with appropriate skills and experience.

Local business practices in jurisdictions in which we operate, and particularly in emerging markets, may be inconsistent with international regulatory requirements, such as anti-corruption and anti-bribery laws and regulations (including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act) to which we are subject. Although we implement policies and procedures designed to ensure compliance with these laws, we cannot guarantee that none of our employees, contractors, partners and agents, as well as those companies to which we outsource certain of our business operations, will not violate our policies or applicable law. Any such violation could have an adverse effect on our business and reputation and may expose us to criminal or civil enforcement actions, including penalties and fines.

Furthermore, the increased presence of our global operations in emerging markets, including outsourcing of certain operations to service providers in such markets (such as India and the Philippines), could impact the control over our operations, as well as create dependency on such external service providers. This method of operation may impact our business and adversely affect our results of operation.

**Our business, facilities or operations could be adversely affected by events outside of our control, such as natural disasters or health epidemics.**

Natural disasters or other unexpected events that adversely affect the business climate in any of our markets could have a material adverse effect on our business, financial condition and results of operations. Our business operations may be subject to interruption by natural disasters, fire, power shortages, telecommunications failures, pandemics and epidemics and other events beyond our control. Although we maintain disaster recovery and business continuity plans, such events could make it difficult or impossible for us to deliver our products and services to our customers, and could decrease demand for our products and services.

The novel coronavirus (COVID-19) pandemic is contributing to a general slowdown in the global economy, which may impact the mode of operation of our customers, including the possible impact on their buying decisions and the sale cycles. At this time, the extent and duration of the continued impact of the pandemic is unknown, and therefore we cannot predict how it may affect our future business, results of operations, financial condition and strategic plans. Furthermore, due to our subscription-based business model, the effect of the COVID-19 pandemic may not be fully reflected in our results of operations until future periods.

In addition, due to the COVID-19 pandemic, we have restricted our employee travel, shifted to work from home in most locations around the world and have changed other operating procedures. The result of such changes may impact our ability to attract and retain employees.

**We depend on our ability to recruit and retain qualified personnel.**

In order to compete, we must recruit and retain executives and other key employees. Hiring and retaining qualified executives and other key employees is critical to our business, and competition for highly qualified and experienced managers in our industry is intense. There is no guarantee that additional key management members will not leave the Company, or if they do, that we will be able to identify and hire qualified replacements, or that the transition of new personnel will not cause disruption in our business.

In addition, due to our growth, or as a result of regular recruitment, we will be required to hire and integrate new employees. Recruiting and retaining qualified engineers and computer programmers to perform research and development and to commercialize our products and solutions, as well as qualified personnel to market and sell those products and solutions, are critical to our success. There can be no assurance that we will be able to successfully recruit and integrate new employees.

There is intense competition to recruit and retain highly skilled employees in the technology industry, which has increased due to the millennial workforce continuing to value multiple company experiences over long tenure. We have suffered from attrition in our workforce in previous years and we believe that such attrition will continue in the future. We may not be able to offer current and potential employees a compensation package that is satisfactory in order to keep them within our employment.

In certain locations in which we have development centers, the rate of attrition is high and could have a negative impact on our ability to retain our employees in such centers, timely develop our products and solutions and service our customers. In addition, the migration of development and other activities and functions to low-cost countries (such as India) may result in disruption to our business due to differing levels of employee knowledge, expertise and organizational and leadership skills, greater employee attrition and increased cost of retaining our most highly-skilled employees.

An inability to attract and retain highly qualified employees may have an adverse effect on our ability to develop new products and solutions and enhancements for existing products and solutions, and to successfully market such products and solutions, all of which would likely have a material adverse effect on our results of operations and financial position. Our success also depends, to a significant extent, upon the continued service of a number of key management, sales, marketing and development employees, the loss of any of whom could materially adversely affect our business, financial condition and results of operations.

**Item 4. Information on the Company.**

**Item 4.A History and Development of the Company.**

The story of NICE is one of continuous innovation driving strategic business transformations, consistently expanding our total addressable markets and becoming a leading provider in every segment we operate in. NICE was founded on September 28, 1986, as Neptune Intelligent Computer Engineering Ltd., with the vision to digitize unstructured data previously captured using analog means. This digitization enabled a new era of capturing, storing, securing and managing large quantities of unstructured data, such as voice calls generated in trading floors, contact centers and air traffic control. On October 14, 1991, the Company was renamed NICE-Systems Ltd., expanding its mission to the Customer Service market, becoming a leading global provider of Workforce Optimization software applications, as well as adding solutions for the Public Safety sector. With the advancement in computing power, the increased quantity of available data and the growing need to generate meaningful business insight, NICE launched Interaction Analytics solutions - allowing organizations to quickly understand and operationalize their captured unstructured interaction data. In 2007, NICE acquired Actimize, a leader in Financial Crime and Compliance analytics solutions, and added real-time transaction data analytics with leading AI-based solutions to help prevent financial fraud and money laundering, transforming the company into an enterprise software analytics leader. In 2016, NICE acquired inContact, a leading provider of cloud contact center software and agent optimization tools, enabling the industry's first fully integrated and complete cloud contact center solution platform.

On June 6, 2016, the Company was renamed NICE Ltd., which is our legal and commercial name. Today, NICE is an enterprise software leader in cloud, analytics, digital and artificial intelligence (sometimes referred to as "AI" in this annual report) in both the Customer Engagement and Financial Crime and Compliance markets. Our solutions help organizations create extraordinary and trusted customer experiences, improve public safety and prevent financial crime. Our solutions are based on advanced cloud platforms that combine digital and omnichannel capabilities, advanced analytics, AI and smart automation.

NICE is a company limited by shares organized under the laws of the State of Israel. Our Israeli offices are located at 13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel (Tel. +972-9-775-3151). Our subsidiary, NICE Systems, Inc. has been appointed as our Agent for Service in the United States, and is located at 221 River Street, Hoboken, New Jersey 07030.

## Principal Capital Expenditures

In the last three fiscal years, our principal capital expenditures were the acquisition of other businesses and repurchases of our American Depositary Receipts (“ADR”). For information regarding our acquisitions and ADR share repurchases, please see Item 5, “Operating and Financial Review and Prospects – Recent Acquisitions,” and “Operating and Financial Review and Prospects – Liquidity and Capital Resources,” in this annual report. For additional information regarding our ADR share repurchases, please also see Item 16E, “Purchases of Equity Securities by the Issuer and Affiliated Purchasers,” in this annual report.

For a breakdown of total revenues by products and services and by geographic markets for each of the last three years, please see Item 5, “Operating and Financial Review and Prospects – Results of Operation,” in this annual report.

## Item 4.B Business Overview

### About NICE

NICE is a global enterprise software leader, providing cloud platforms for AI-driven business solutions that serve two main markets: Customer Engagement and Financial Crime and Compliance. Our core mission is to transform experiences to be extraordinary and trusted. Our solutions are used by customer service organizations of enterprises of all sizes and verticals, and by compliance and fraud-prevention groups in leading financial institutions, offered in multiple delivery models, including cloud and on-premises.

We help organizations transform customer experiences with solutions aimed at understanding consumer journeys, creating smarter hyper-personalized connections, managing seamless omnichannel interactions and providing digital-centric self-service capabilities. We also help organizations transform their workforce experience with solutions aimed at engaging employees, optimizing operations and automating processes. In the Financial Crime and Compliance market, we protect financial services organizations and their customers’ accounts and transactions, with solutions that identify risks faster and earlier to prevent money laundering and fraud, as well as ensure compliance in real-time.

NICE is at the forefront of several industry technological disruptions that have greatly accelerated over the course of the recent pandemic: the adoption of cloud platforms by organizations of all sizes and verticals, the shift of consumer and organizational preferences towards digital-centric services and experiences, the growing acceptance of AI, and the need to manage, optimize and engage a diverse and remote workforce. Our suite of integrated portfolio of solutions, based on our unique domain expertise, provide customer experience, financial crime and public safety organizations with industry-leading agility and unmatched innovation that are essential for organizations’ success.

We rely on several key assets to drive our growth:

- Our market-leading open native cloud platforms for Customer Engagement, Financial Crime and Compliance, and Public Safety which natively embed analytics, automation, AI, and digital capabilities, and are protected by a broad array of patents.
- Our extensive portfolio of applications allows our customers to benefit from a wide range of both cloud and on-premises solutions.
- Our broad array of proprietary technologies and algorithms in the domains of automation, analytics, machine learning, speech-to-text, natural language processing, personality-based routing and others.
- Our access to data for improving our algorithms through machine learning and AI, which relies on a combination of our expansive customer base, cloud deployments and domain expertise.
- Our solutions cover all market segments, from small to mid-sized business to large scale Fortune 100 enterprises.
- Our solutions are mission critical for the operation of our customers, and our cloud platforms are essential for enabling a scalable and sustainable work-from-anywhere environment.

- Our market leadership, which makes us a well-recognized brand and creates top-of-mind awareness for our solutions in our areas of operation.
- Our large partner ecosystem enables us to reach and serve a large number of customers across many countries.
- Our loyal customer base: more than 25,000 organizations in over 150 countries, across many industries, and including 85 of the Fortune 100 companies, use NICE solutions.
- Our ability to quickly drive mainstream adoption for innovative solutions and new technologies and trends, which we introduce to the market through our direct sales force and distribution network.
- Our skilled employees and domain expertise in our core markets allow us to bring our customers the right solutions to address key business challenges and build strong customer partnerships.
- Our services, customer support and operations, which enable our customers to quickly enjoy the benefits of our solutions, with multiple deployment models in the cloud or on-premises throughout the world and support for full value realization and customer success.

### Industry and Technology Trends

Following are the key cross-industry trends that we have identified as driving demand for our solutions:

- **Organizations prefer using open cloud platforms as the foundation for their applications to allow quick innovation cycles and business agility.** Open platforms provide unified and fully-integrated solutions that are all based on a shared framework of services, allowing for fast innovation, easy deployment, flexible functionality and an enhanced ecosystem of solution providers. Third-party solutions can be easily added to extend the functionality of the platform to match a customer's or industry specific needs.
- **Accelerated adoption of cloud solutions by organizations of all sizes.** Cloud solutions have grown to become common, from small and mid-size to large organizations. In recent years, we are seeing acceleration in cloud deployments in large to very large organizations. The adoption of cloud solutions provides organizations with the agility they need to quickly adapt, renew and innovate, while meeting their requirements for security, scale, stability, and other enterprise grade needs. The recent pandemic has pushed many organizations to further accelerate their cloud transformation and move to an agile mode of operation to meet new business requirements, enable flexible work from anywhere and lower operational costs.
- **Organizations are going through accelerated digital transformation in response to consumer preferences enhanced by recent social distancing practices.** In order to remain competitive, organizations need to provide customers with various digital means by which they prefer to interact with the organization. Digital transformation allows for quality, consistent and personalized experiences across channels, higher use of digital banking, more efficient end-to-end processes, faster response time and empowerment of employees and customers.
- **Artificial Intelligence and Automation are disrupting businesses across all industries.** AI and automation are reshaping the way organizations are conducting their businesses across all organizational functions. It helps with strategic decision-making through data processing on a scale much larger and faster than any human could accomplish. Implementing AI and automation helps organizations sustain competitiveness and differentiation by proactively streamlining and automating complex business processes in smart ways, infusing real-time decisioning and predictive tools based on cognitive technologies, and generating meaningful and operationalized insight from vast data.

Customer engagement trends that are driving demand for our solutions:

- **Increased use by consumers of newer digital channels as first choice for interaction with organizations.** Newer Digital Channels comprise mainly messaging and social applications. The nature of these channels is different from voice and traditional digital channels (e.g., email, chat) due to the asynchronous response times and ability to carry the conversation for extended periods of time. Over the course of the recent pandemic, social distancing substantially increased the use of digital channels, and consumers of all ages and generations now show a clear preference for messaging channels when interacting with customer service. Organizations need to make sure they offer these channels as a communication alternative.
- **Consumer expectation for a holistic omnichannel experience that is effortless, contextual and consistent across all touchpoints has become a standard requirement.** While consumers move constantly between devices and channels, their expectation is for consistent experiences that are keeping the interaction context across all communication channels and are seamlessly transitioned from one channel to another, and can also communicate in different modalities simultaneously. The number of channels is continuously growing, but consumers view them all as part of a single experience. Organizations are expected to quickly adapt to the large variety of channels as well as to view them seamlessly in the same way their consumers do and offer a reliable and consistent, contextual experience across all touch points.
- **Organizations rely more on analytics and AI to further improve customer experience as well as the general performance of the contact center.** Organizations are increasingly adopting a customer-centric strategy to better understand each individual customer, including their needs and preferences, and to respond accordingly. Organizations are increasing the use of AI to achieve focused decisioning and real-time action solutions – being proactive and predictive. Front and back office functions seek to employ analytics to better optimize their operations. These tools include, among others, cognitive engagement solutions, like interactive communications, predictive analytics and machine learning. Furthermore, smart and self-learning machines allow the enhancement of self-service, real-time guidance and analytics-based insights (including speech and text analytics), behavioral analytics and techniques focused on profiling, trending and pattern detection. As a result, organizations increasingly use these technologies to provide faster and more efficient customer service as well as drive specific business outcomes.
- **Conversational bots are being deployed to contain and deflect calls and interactions into self-service.** Organizations are looking for new and advanced digital means to improve customer satisfaction and reduce cost. Further development of intelligent bots will improve operational processes, ensure compliance with rules and regulations, increase flexibility in customer interactions with the contact center, as well as decrease error rate and wait time while providing a personalized experience. This technology will increase self-service channels containment and allow the human workforce to focus on more complex value-added services.
- **Adoption of Robotic Process Automation (RPA) solutions keep growing in the contact center in order to increase agent efficiency and productivity while reducing costs.** RPA helps to significantly reduce the number of manual and time-consuming tasks agents and employees need to perform, freeing them to spend time in added-value activities. RPA can be divided into unattended and attended automation. With unattended RPA, companies are looking to fully automate back-office processes at scale with no human intervention. With attended RPA the bots can work as virtual assistants to agents dramatically improving the work-from-anywhere contact center’s workforce capabilities.
- **In response to the COVID-19 pandemic, organizations need to enable their employees to work from anywhere.** To do that successfully, they are continually looking for ways to engage and motivate employees to ensure their productivity and satisfaction is maintained, regardless of their physical location. The new work environment creates new demands regarding planning, scheduling, evaluating, coaching and incentivizing employees. This requires organizations to manage their workforce in an agile and personalized manner that improves employees’ performance and allows the same level of visibility, transparency, and productivity as they used to have when working from the office.
- **Public Safety Answering Points (PSAP) are adopting next generation communication infrastructure to enable digital emergency communication.** Next generation PSAPs enable people to communicate through new digital channels enhanced with capabilities such as sharing media, location and other forms of digital data.

- **Public safety agencies of all types – from emergency communications centers and police departments, to prosecutors, defense attorneys and courts – are collecting vast amount of data, most of it is digital native.** The vast amount of new information available to PSAPs intensifies the need for enterprise-grade, secure digital evidence management platforms for gathering, managing and ensuring compliance of public safety data to support digital evidence collection and investigation.

Financial Crime and Compliance trends that are driving demand for our solutions:

- **The need to embed risk management controls into digital first strategies.** Financial services organizations are undergoing significant digital and analytics transformations to provide safe and seamless customer access to accounts across all channels and enable safe and secure transactions. At the forefront of these initiatives is the need to improve customer experience. The realization that risk management is a critical component to the customer experience is driving a high demand for financial crime prevention and detection solutions across the customer lifecycle from onboarding to ongoing monitoring.
- **Preventing financial crime and ensuring stringent compliance with evolving regulatory environments.** Regulatory scrutiny of financial institutions continues to apply pressure on organizations to adopt more advanced regulatory compliance and risk management technology. Furthermore, regulators have been expanding their focus from the largest financial institutions to a broader market, including smaller banks and alternative financial service providers, all creating increased demand for risk and compliance related solutions.
- **An unpredictable threat landscape environment.** The growing number of data breaches and cyber security incidents put increasing amounts of personally identifiable information and sensitive data at risk of exposure. This information can be used to open accounts that can be used for laundering money, terrorist financing, account fraud, market manipulation, social engineering, and more. Such potential risks threaten an organization’s reputation, as well as create large financial exposures due to both losses as well as fines. In addition, the large volumes of data, related to both internal and external threats, place an enormous operational burden on organizations. Having the ability to deploy advanced technologies such as machine learning and automation to address these threats, becomes increasingly critical to financial services organizations.
- **An increasing need to control cost of compliance.** The regulatory pressures and increasing threat landscape have driven a sharp increase in the number of risk and compliance personnel, which in turn has dramatically increased the cost of compliance. Organizations are turning to technology to allow them to control these costs without compromising their compliance adherence and while continuing to lower their exposure to financial crime.
- **Financial institutions are seeking a single platform that aggregates and analyzes financial crime-related Risk in one place.** The ever-expanding risk landscape and sophistication of financial criminals, as well as the need to keep costs in check, creates a growing need for a single view of different detection signals throughout the financial services organization. Such platform allows financial services organizations to analyze the data, act on it and present it in a single dashboard to both operations and executives.
- **Process automation and machine learning are increasingly used to automate financial investigation tasks where it may not be necessary to have human involvement.** This frees up investigators from low value, high volume manual tasks so that they may better focus on more important and strategic tasks. This leads to better resource utilization, increased accuracy and productivity, and improved return on investment.
- **Financial institutions are being disrupted by digital players providing improved experiences and more personalized products and services.** Prior to the onset of the pandemic, most banking services and many other financial service organizations were being challenged by neo-banks, fintech companies and other digital players. To improve customer experiences, and compete against these digital players, financial institutions continue to invest heavily in digital capabilities. Consumers have increased expectations for faster and frictionless processes. In terms of risk, digital banking moves the consumer away from the branch creating new risks around identity verification, customer due diligence and general monitoring of

consumer financial behavior. The expectations for fast response times drive financial institutions to re-design their compliance processes to be able to respond in minutes or seconds rather than days or weeks, which in turn requires broader adoption of AI across the customer lifecycle.

## **Strategy**

Our long-term strategy is to further strengthen our leadership position in both Customer Engagement and Financial Crime and Compliance market segments, as well as to further enhance our position in adjacent markets. During 2020, we continued to execute on our long-term strategy through both organic activity and acquisitions, enhancing our position as a leader in both markets.

### *Empowering organizations to lead by adapting to change*

We intend to continue leading the market by leveraging several major industry trends and evolving our offering to meet our customers' current and future needs while focusing on key strategic pillars:

- Cloud Foundation – we provide cloud-native open platforms for our Customer Engagement and Financial Crime and Compliance offerings. This allows our customers to facilitate adoption of cloud infrastructure as a means to accelerate innovation and reduce integration, implementation and operational efforts.
- Digital - we enable businesses to deliver digital-first omnichannel experiences, including the ability to service customers across multiple channels, provide secure digital banking and help public safety organizations shift to digital interaction and digital evidence environments.
- AI, Analytics and Automation – our domain expertise and advanced technology in the areas of AI, machine learning and automation, as well as our unique access to data to train these algorithms via our cloud offerings, allow us to provide market leading AI-driven smarter processes to our customers, addressing numerous business use cases across all our market segments.

### *Strengthening our market leadership*

Our brand, global reach, financial resources, extensive domain expertise and ability to deliver solutions for large, as well as small and mid-sized organizations, will further anchor our market-leading position.

We plan to continue to develop our open cloud platforms for Customer Engagement and Financial Crime markets to enable unified integrated solutions that offer fast innovation and easy implementation. These platforms allow us to deepen our direct relationships with our customers, nurture our partner ecosystem and create new growth opportunities.

In our Customer Engagement business, we will continue to expand our offering through our CXone platform. With CXone we provide the broadest suite of analytics and AI-infused integrated applications for customer service, all on an open cloud-native foundation. Alongside our existing offering, we plan to lead in new product categories, as we introduce novel solutions and enter additional market segments. We will continue to extend our leading market position for cloud contact center solutions, catering to organizations of all sizes and replacing legacy on-premises infrastructure players. We will also continue to enable our customers to extend our solutions through innovative third-party solutions via our DEVone dedicated partner ecosystem that our customers can self-select through our platform's CXexchange application marketplace. Our Evidential cloud digital transformation platform allows public safety, law enforcement and criminal justice agencies to transform to the digital age, managing response, investigation and prosecution digitally and embedding analytics and AI throughout the entire criminal justice process, enabling agencies to leverage data to the fullest and work together collaboratively to enhance public safety.

In our Financial Crime and Compliance business, we will continue to expand our offerings across all market segments by providing new and enhanced solutions that protect financial services organizations and their customers earlier in the customer lifecycle and by infusing more AI across our portfolio of solutions. With our X-Sight cloud platform, we provide open, scalable and flexible solutions with the broadest financial crime and compliance coverage to the top tier of the market. We launched X-Sight DataIQ, which orchestrates the aggregation of data from hundreds of sources, delivering real-time accurate customer intelligence. Continued innovations on X-Sight will further cement our leading market position. With Xceed, we provide fully packaged anti-money laundering (AML) and fraud coverage and solutions to the mid-market,



enabling smaller organizations to realize full protection with quick time to value. Xceed is expected to enable further growth with mid-market financial institutions. All Actimize solutions are infused with Always on AI, our multi-layered approach that injects AI, machine learning, automation, Natural Language Processing and other advanced technologies throughout the financial crime and compliance value chain. This allows financial services organizations to merge innovative and patented technologies to seamlessly connect data and apply AI to turn raw data into financial crime intelligence to fuel analytic precision and detect and prevent financial crimes. These offerings enable us to add value to our existing customers, as well as expand our reach and open-up new opportunities, considerably increasing our total addressable market.

#### *Help our customers transform to the cloud*

The majority of our customers still rely exclusively or heavily on traditional on-premise software deployment, which is slow-moving and costly to maintain. We continue to leverage our leading cloud platforms as well as our brand and relationships and domain expertise to help our customers adopt cloud solutions at the pace that matches their needs and preferences.

We intend to continue offering our solutions in a variety of delivery models, which enable us to be flexible in effectively addressing our customers' needs.

#### *Continuing to offer our full solutions portfolio to our existing customer base*

One of our main assets is our growing customer base. We believe there are many opportunities to expand, up-sell and cross-sell within our existing customer base. This includes increasing our customers' exposure to the full breadth of our portfolio. We continue to provide our customers with new benefits by expanding the offering they already use, adding new products and migrating our customers to the cloud.

#### *Continuing organic innovation and development, while also pursuing acquisitions*

We intend to continue investing in innovation and development and continue to augment our organic growth with additional acquisitions that will broaden our product and technology portfolio, expand our presence in selected verticals, adjacent markets and geographic areas, broaden our customer base, and increase our distribution channels.

#### *Maximizing the synergies across our businesses*

At NICE, we value and promote a synergetic approach to our platforms and solutions. We will continue leveraging the fact that many of our solutions are based on common cloud architectures as well as on methodology of capturing and analyzing massive amounts of structured and unstructured data, providing real-time insight and driving process automation. Maximizing these synergies and cooperation between our business areas is a key pillar of our corporate strategy.

We have several joint offerings across our business segments and combined go-to-market efforts. We will continue leveraging our extensive complementary domain expertise, technological know-how, capabilities and development, in order to grow our business through additional cross-sell and up-sell opportunities.

#### *Increasing our footprint in select geographical regions*

As part of our growth strategy, we are expanding our business in select regions globally, where we can further grow and establish our presence in less penetrated, growing markets. We are doing this by leveraging our existing offering and partner ecosystem, in both the Customer Engagement business as well as the Financial Crime and Compliance business. We continue to expand our international partner network.

### **Customer Engagement Business Strategy**

Our strategy is to extend our market leading position in the Customer Engagement space, while continuing to innovate and address emerging needs of customer service organizations such as supporting different customer experience channels and touch points with multiple delivery models. We intend to achieve this by:

- Offering CXone, the global leading unified cloud customer experience platform that combines Omnichannel Routing for voice and digital channels, IVR, self-service, Customer Journey Analytics and AI, Agile Workforce Engagement Management (Agile WEM) and Automation.
- Leading cloud transformation across the entire Customer Engagement portfolio for all market segments and regions to enable rapid innovation, enhance flexibility and agility, and lower TCO.
- Infusing analytics, AI and automation into every element of our Customer Engagement offerings to enable predictive and proactive service, augment the workforce and operationalize insights smarter and faster.
- Enabling our customers to deploy AI-driven conversational bots to provide self-service and assisted service capabilities which improve customer experience as well as reduce cost to serve.
- Transforming the workforce through digital, AI-based Agile WEM platform that helps organizations dynamically forecast and schedule the complex work-from-anywhere workforce, understand the individual employee's preferences, needs and actions. This level of agility empowers employees experience to drive motivation and reduce attrition, as well as adapt agent scheduling, monitoring, quality & performance capabilities to support the agile work environment and maintain service levels.
- Enabling customer service organizations to provide omnichannel service experience across voice and all digital channels. Providing agents with unique digital functionalities and capabilities including digital collaboration, agent assist and automation.
- Offering solutions for all customer touchpoints, as well as solutions that benefit back office operations, retail branches, and self-service channels with the ability to easily connect future channels.
- Applying advanced interaction analytics to better understand interaction context, sentiment and customer personality, and operationalize all available data sources with Predictive Behavioral Routing (PBR) to connect customers with the most suitable contact center employee.
- Managing the customer experience through a customer experience management platform that is able to intelligently capture customer feedback across all touch points, generate specific insights and take action to address the needs of CX professionals and other stakeholders in order to improve customer loyalty and satisfaction.
- Leveraging Robotic Process Automation to automate manual tasks across our customers' operations, while using our advanced AI based Automation Finder capabilities to identify processes suitable to automate.
- Offering our customers the ability to extend our solutions through innovative third-party solutions provided by our DEVone dedicated partner ecosystem. Our customers can self-select these third-party solutions from our platform's CXexchange application marketplace.
- Extending our offering to the PSAP to support next generation digital emergency communication, ensuring compliance and enabling enhanced digital evidence collection and investigation
- Offering a leading unified cloud-based Digital Evidence Management and Investigation platform, Evidencentral, that integrates and consolidates all forms of evidence information - data and media from police records and dispatch management systems.

### **Financial Crime and Compliance Business Strategy**

We plan to continue extending our market leading position and our addressable market, while further supporting the move to the cloud by financial institutions. We also plan to leverage our capabilities to facilitate both better financial crime protection and help our customers realize significant cost reductions. We intend to achieve this by focusing on:

- Delivering integrated Financial Crime and Compliance solutions that help financial services organizations identify risks faster and earlier throughout all phases of the customer lifecycle.

- Expanding our market reach within the mid-tier banks and financial institutions with Xceed. Xceed platform is a native cloud, AI- Financial Crime and Compliance platform that provides AML and Fraud solutions, enabling smaller organizations to enjoy the capabilities previously only afforded to large organizations in a fully packaged SaaS offering.
- Providing X-Sight, our cloud-native AI platform for Financial Crime and Compliance solutions for the top tiers of the market to further strengthen and grow our market leadership position. X-Sight combines data and analytics agility and our ability to cross-sell solutions. Our cloud platform leverages Big Data, AI, machine learning, advanced automation and other technologies to help customers reduce the cost of operations, while increasing their adherence to compliance and preventing financial crime.
- Offering X-Sight AI, a data driven, machine learning, analytics managed service (Actimize Watch) or do-it-yourself toolset (X-Sight Studio) to retain and optimize analytic models and develop new analytics by leveraging insights from our market-wide view of transactions.
- Offering X-Sight DataIQ, our orchestration and aggregation engine that seamlessly connects to multiple premium and public data sources, turning raw data into the intelligence to fight financial crimes.
- Expanding the X-Sight Marketplace, an ecosystem of innovative third-party partners where our customers can select complementary offerings to extend our platforms and products.
- Offering our solutions to verticals outside of the traditional financial services, such as technology, gaming, energy, insurance, healthcare, industry regulators, government agencies, as well as to fintech and alternative payments providers.
- Continuing to cross-sell and up-sell into our existing customer base around the world.
- Partnering with world-class consultancy and other firms to identify additional significant opportunities.
- Increasingly selling holistic solutions, combining Financial Crime and Compliance offerings with Customer Engagement offerings.

## I. Offering Overview - Customer Engagement

Creating extraordinary customer and employee experiences becomes even more critical in times of change. With contact center employees working from home, and customer service needs becoming more urgent and demanding, organizations are required to adapt new operating models to increase their flexibility and maintain agility. These dynamics are challenging organizations to differentiate themselves through efficient, effective and high-quality customer experiences that are digital, including agent-assisted and self-help channels, consistent and personalized across all touch points. In addition, organizations must find ways to generate business insights, better understand and predict customer intent and create smarter customer connections. They need to accomplish these objectives while containing operational costs and adhering to regulations.

NICE's comprehensive portfolio of solutions empowers organizational change across major market transformations our customers are undergoing, enabling the creation of extraordinary and agile customer and employee experiences:

Our **Cloud Native Open Platform**, CXone, transforms contact center software to provide an exceptional agent and customer experience, every time and on every channel. It opens new possibilities for all employees to work from a single, consolidated interface –from any location onsite or at home – with a common view of operational performance and each customer's journey. In addition, with predictive analytics and embedded artificial intelligence, it empowers teams to resolve issues faster, personalize each experience and forge deeper loyalty with each customer. CXone supports contact centers of all sizes and geographic locations – from small single sites, to distributed remote agents, to global enterprises. As a modern, cloud native platform, CXone allows organizations to compete on innovation and routinely transform experiences with speed and sophistication, overcoming expensive and lengthy innovation and product cycles, and eliminating painful integrations by having a unified modern architecture with automatic upgrades.

Our **Digital-first Omnichannel Customer Service** solutions, part of CXone, enable organizations to prioritize digital transformation as an urgent initiative in order to be able to adapt to the changing needs of the current environment and deliver service on a multitude of digital channels. NICE offers a complete digital-first omnichannel customer engagement platform, allowing organizations to easily add and integrate new and emerging channels. Our smart digital-first omnichannel

routing capabilities empower organizations to interact with their customers in a seamless and effortless way by providing a fully unified environment, allowing for a single view of experiences.

Our **Customer Experience Management** solutions empower organizations to find new and improved ways to attend to the evolving expectations of their customers and employees, and to understand their activities and their processes. We enable this by uniquely combining customer feedback, interactions-based analytics insight and journey analytics to get a holistic view of the customer experience across all channels. Using advanced analytics engines, we analyze every aspect of the customer experience to generate automated actionable insight and create hyper-personalized experiences in real-time that are based on the customer's personality-type, interests, preferences, behaviors, emotions and history. Organizations can also leverage these smart analytics and AI algorithms to predict customer intent, and proactively act on it in real time.

Our **AI Driven Smarter Processes** solutions, powered by our Enlighten AI framework that is native to CXone, leverage automation and AI to optimize internal processes and enhance digital presence across all business areas, both in and outside the contact center. It helps organizations adapt to their surroundings in smart, proactive ways by embedding AI everywhere. We use real-time decisioning engines to help uncover, identify and prioritize the top processes that should be automated to optimize workforce productivity. We offer smart and quick self-service capabilities and a full range of automation, from unattended robots to virtual attendants who guide the employee in real time on their desktop.

Our **Agile Workforce Engagement** solutions enable organizations to manage the multi-skilled, dynamic, 'anywhere' workforce, understand their employees in new ways that take into consideration their personal attributes and preferences and create an adaptive environment to meet employees' expectations for an environment that is flexible and preference-based, promoting a better work-life balance. NICE creates accurate multi-skill multi-site forecasting to manage the complex workforce by applying advanced AI to forecast and schedule correct staffing, manage quality, lower cost and improve performance across skills, locations, channels and employee preferences.

### **Our Platform and Solutions' Core Capabilities**

Our platform and solutions both in the cloud as well as on-premises empower businesses to transform the experiences they provide to their customers and employees, through the following core capabilities:

**Open Cloud Platform** is the foundation of CXone, our complete cloud contact center offering, powering rapid innovation with an extensible enterprise-grade platform that scales securely, deploys quickly, and serves customers of all sizes globally. We offer easy customization through hundreds of RESTful APIs and our DEVone developer program, plus CXexchange marketplace with over 160 pre-built integrations from ecosystem partners. CXone enables multi-national organizations to deliver service with confidence from a single instance, backed by a guaranteed money-back SLA based on Mean Opinion Score (MOS), and including the broadest level of certifications in the industry, including PCI Level 1, HIPAA, SOC2, SOX, FedRAMP, Cybersecurity Essentials, IRAP, and others.

**Smart Omnichannel Routing, Recording and Self-service** enables organizations to run their contact center in the cloud, record structured and unstructured customer interaction and transaction data, and route customer interactions across over 30 inbound/outbound channels in a hyper personalized manner. All self-help, voice and digital channels are unified into a single consistent omnichannel view of the experience, enabling organizations to deliver service on any channel, ensuring interactions are seamlessly routed across all touchpoints, and consumers can move between channels, while keeping the same context and employee. Organizations gain business flexibility by quickly deploying agents anytime, anywhere, including remote or home-based agents and implementing changes to customer routing and IVR in hours, not months. Our AI-powered Predictive Behavioral Routing (PBR) transforms customer experience with hyper-personalization in the cloud, enabling an understanding of customers' communication preferences and behavioral characteristics and connecting them to the agent best suitable to handle their request. This understanding leads to better connections between customers and employees, resulting in immediate and measurable benefits to an organization's bottom line.

**Omnichannel, Real-time Customer Experience Analytics** enables organizations to uncover the valuable data and insights hidden in customer interactions and customer journeys. It uses advanced technology for analyzing speech, text, call flow, feedback, customer sentiment, employee behavior and desktop activity, in order to understand the root cause of service issues, connect the customers with the best employees to handle the interaction, and to drive business results. Analysis of the customer journey across various touchpoints, transactions and events allow organizations to have a comprehensive view of customer intents and actions throughout that journey, understand the context of each contact, uncover patterns, predict needs and personalize interactions in real time. Organizations can also leverage Big Data infrastructure and predictive analytics and AI models to objectively measure agent behaviors across time and touch points, with no bias, and transform them into objective insight and act on them in real time.

**Machine Learning, Automation and AI Capabilities** are embedded everywhere to improve internal processes, from deploying AI Chatbots that are seamlessly woven into the omnichannel routing platform, allowing an effortless move from a bot to another channel, to powering more accurate staffing forecasts, to automatically categorizing interactions based on content, agent behavior and customer sentiment. NICE Enlighten, our comprehensive AI framework for customer engagement, interprets and predicts human behaviors by objectively measuring all interactions consistently and efficiently to drive business outcomes. NICE Enlighten is embedded within our entire portfolio, enhancing all aspects of our customer engagement solutions (forecasting, scheduling, coaching, analyzing, managing, reporting etc.) with specific AI measurements, insights and predictions that are unique to the world of customer service. Our Advanced Process Automation solutions provide a comprehensive range of robotic solutions, all as part of a single automation platform. It includes robotic automation of mundane and manual processes to employee desktop guidance with NICE’s Employee Virtual Attendant (NEVA), which prompts desktop guidance in the context of the live customer interaction or the process the employee is working on. These solutions enable organizations to make the right decision during individual interactions in real time and across a large number of interactions, eliminating errors and providing future next-best-action guidance.

**Workforce Optimization and Employee Engagement Management** uses AI and machine learning for long-term planning, workload forecasting and scheduling and leverages intelligent automation for intraday activities in an adaptive and automated manner, enabling greater flexibility for the agent to perform schedule-changes while meeting operational goals. We leverage AI to provide adaptive and customized goal-setting based on employee preferences and personal attributes, support adaptive coaching methods, and motivate each employee through advanced gamification that creates a shared sense of accomplishment. We drive organizations to improve an agent’s individual productivity, by creating an employee-adaptive environment, identifying performance gaps, delivering on targeted coaching and training, fostering performance-driven operations and culture, and embedding the voice of the customer into daily operations to engage employees. Our workforce engagement solutions are especially relevant for mastering today’s ‘anywhere’ workforce, the rise of the gig economy and the increasing number of Gen Z employees.

**Addressing Business and Operational Needs**

Our platform and solutions are designed to address various organizational business initiatives, both inside and outside the contact center. Below is the list of available NICE Customer Engagement solutions, grouped by these main initiatives:

**1. Provide Digital-First Customer Service**

Solutions and Capabilities	Description
Automatic Contact Distributor (ACD)	Connects customers to the best resource, either self-service or agent assisted, through an intelligent, skills-based omnichannel routing engine. It enables seamless elevation across channels – including from AI Bots – and makes it easy to create and maintain routing flows using a centralized, visual and intuitive customer contact workflow design tool.
Interactive Voice Response (IVR)	Accelerates customer contact resolution, improves routing accuracy, and cuts costs with automation. It leverages natural speech to provide self-service resolution or collect caller information to determine optimal handling for an improved customer experience.
Conversational Bot	Provides self-service through a conversational, natural language, interaction that allows to both provide customer with information as well as execute transactions.
NICE Enlighten	NICE Enlighten is the first comprehensive AI framework for customer engagement. It interprets and predicts human behaviors by objectively measuring all interactions consistently and efficiently, with no bias and no human effort, to drive business outcomes. Each model is derived from millions of real-world interactions, using the most comprehensive syndicated interaction database in the world. Organizations of any size and every industry, with or without data science expertise, can now quickly improve customer experience metrics such as CSAT, complaints, and customer retention with significantly less time and effort than ever previously possible.
Personal Connection Proactive Outbound	Provides inside sales teams an easier way to attain quota by connecting with more prospects every day and provides customer service teams the ability to reduce inbound calls through personalized, low cost, and proactive outbound notifications, such as text/SMS or email.

Customer Interaction Channels	Enables contact centers to service customers via any channel, focusing on self-help and digital channels, with extensive routing options, consolidated reporting and a state-of-the-art agent interface. Channels include inbound and outbound voice, callback, voicemail, email, chat, text/SMS, work items, and dozens of digital messaging and social media channels.
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## 2. Use an Open Cloud Platform for Faster Innovation

Solutions and Capabilities	Description
Customer Relationship Management (CRM) Integrations	Delivers pre-built integrations with leading CRM environments, including Salesforce.com, Microsoft Dynamics, Zendesk, ServiceNow, SAP, Oracle, and more. These integrations empower agents to personalize omnichannel customer service. Provides seamless, bidirectional CRM integrations with the contact center that increase agent efficiency and independence by delivering a real-time 360-degree view of the customer.
Unified Communications (UCaaS) Integrations	Delivers pre-built or partner-provided integration with Unified Communication tools, facilitating expert access through synchronized presence and instant engagement, in a unified agent interface. Pre-built integrations include Microsoft Teams, RingCentral, Zoom, LogMeIn, Atos and more.
Network and Voice Connectivity Solutions	Delivers quality optimized cloud voice and data services that enable quality connections between agents and customers, while allowing organizations to save money through a low latency, optimized, least-cost routing mix on a global scale. Customers can access global, carrier-grade, cloud-integrated voice services in more than 130 countries with confidence, backed by a guaranteed money-back SLA based on Mean Opinion Score (MOS).
Developer Tools and Marketplace	Powers rapid innovation, future-proof customization, and easy integration through hundreds of REST-ful APIs and a marketplace with over 160 pre-built integrations from ecosystem partners.

## 3. Adhere to Compliance and Mitigate Risk

Solutions and Capabilities	Description
Contact Center Omnichannel Recording	Provides comprehensive omnichannel interaction recording: voice, video, chat, email, and social media, and integrates with all telephony environments and hybrid networks. It delivers all the advantages of a thorough and robust recording platform, both on-premises and in the cloud, recording contact center interactions or work from home conversations, over a fully dedicated and operated public or private cloud designed for high availability and redundancy. Supports thousands of concurrent IP streams: capturing, forwarding in real time, and recording and archiving in a single platform while ensuring customer safety and minimizing organizational risks, with its encompassing compliance solution, certified for PCI DSS3 and HIPAA.
Communication Compliance Trade Floor Recording	Compliance trading floor recording and capture, based on the compliance policies of financial institutions, ensuring a lower total cost of ownership than traditional blanket recording methods. It enables organizations to capture, monitor and analyze interactions and transactions in real time, in order to proactively minimize risks, detect potential regulatory breaches, and improve investigative capabilities. The solution delivers comprehensive, integrated capabilities to effectively manage the complex, ongoing, high-risk exchange of interactions and transactions between traders, firms and their counterparties.

Communication Compliance Omnichannel Recording	Proactively captures and retains all customer interactions across multiple touch points communication modalities, such as video, voice, chat, and more to help ensure compliance with government regulations, such as the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Security Exchange Commission Rule 17a-4, the Health Insurance Portability and Accountability Act, the Sarbanes–Oxley Act, the Payment Card Industry Data Security Standard, the Financial Services Authority and Medicare Improvements for Patients and Providers Act, the GDPR, the CCPA, as well as with internal policies. Compliance Recording is also an invaluable tool to resolve disputes, perform investigations and verify sales, as well as provide redundancy and disaster recovery capabilities to meet business continuity requirements. NICE Trading Recording (NTR) platform works with the leading UC providers and is certified by Microsoft to capture all Microsoft Teams communication types like voice, video, chat, screen sharing and more.
NTR-X, Next Generation Communication Compliance Recording	NTR-X is the world’s first and only enterprise-grade solution for financial services that combines omnichannel recording and robust compliance assurance tools, all in one cloud-ready global communication compliance platform. It enables organizations to capture all of their regulated employee communications regardless of platform (traditional, unified or mobile) and ensure compliance with all global regulations. NTR-X’s scalable, modular architecture lowers TCO and gives firms control over their own data, while providing a future path to cloud migration.
Compliance Center	Empowering organizations to manage all interactions compliance activities in one place in a smart and automated way. Compliance Center enables detecting violations, defining policies and carrying out audits relating to regulations such as PCI DSS, HIPAA, SEC, MIFID II, and GDPR. Compliance Center includes compliance dashboards that provide an aggregated view of regulatory topics and do-it-yourself policy management hub to see, manage and automate all compliance activities as part of a single repository. It also includes a dedicated application to gain compliance insights, trigger real- time notifications to agents related to recording assurance, audio loss, and offers manual commands for PCI DSS with pause and resume.
Fraud Prevention	NICE Fraud Prevention solutions proactively detect, expose and block known and unknown fraudsters. NICE Enlighten Fraud Prevention combines NICE’s Enlighten AI capabilities with NICE’s voice biometrics Proactive Fraudster Exposure (PFE) solution to continuously detect fraudulent behavior and expose fraudsters across millions of calls over time. Verified fraudsters are added to a watchlist and are blocked when they try to make future calls to the contact center.
Communication Compliance Trade Floor Solutions	Enables organizations to capture, monitor and analyze interactions and transactions in real time, in order to proactively minimize risks, detect potential regulatory breaches, counter fraudulent activities, and improve investigative capabilities. These solutions deliver comprehensive, integrated capabilities to effectively manage the complex, ongoing, high-risk exchange of interactions and transactions between traders, firms and their counterparties. Solutions include integrations with mobile phone providers, unified communication platforms, and more.
Communication Surveillance	Monitors trading activity by analyzing conversations from trading turrets, fixed and mobile phones, email, text, instant messaging, chat and social media using speech analytics, machine-learning and natural language processing. It automatically highlights potential risks and enables compliance officers and analysts to see emerging trends so that compliance breaches and fraud can be averted while keeping false positives at a minimum. It also enables organizations to meet global regulatory requirements with fully auditable workflows and reporting functionality that fulfill the needs for a robust supervision and investigation process.
Communication Compliance Assurance	Facilitates the automation of compliance assurance. NICE COMPASS reduces the risk of a regulatory violation by verifying all endpoints recording prior to the beginning of the trading day and proactively identifying unrecorded calls. It also significantly increases efficiency by automating litigation hold requests, retention periods for all regions and lines of business, and moves, adds and changes (MAC), among other items.

Complaint Management	Enables organizations to use analytics to identify interactions at risk and manage the process of handling the complaint.
Transcription	Fully automates the manual processes around retrieving, downloading and transcribing trade-related communications. Provides organizations with the ability to accelerate investigations, improve responsiveness to regulators and quickly search for keywords.
Managed Services	A proactive support plan that was designed to complement our traditional support offering by adding four support options to proactively address problems before they escalate. Our four-pronged advanced services approach protects against recording loss by proactively monitoring an organization's global recording estate around-the clock, ensuring all sites are on the latest software release, and providing a single point of contact and accountability for problem resolution, backed by a team of expertly trained support engineers.

#### 4. Increase Operational Efficiency

Solutions and Capabilities	Description
Performance Management	Maps enterprise business objectives to group and individual goals, and tracks and reports on performance, wherever they may be located. It also automates critical managerial activities, including data analysis, identification of improvement areas, employee coaching, recognition, and performance improvement, allowing front-line managers to become more effective and efficient in developing their teams. Performance Management also includes unique capabilities, such as gamification and SMART programs, to engage, motivate, facilitate coaching and align employees around common and personalized business goals.
Workforce Management	Forecasts an organization's interactions load, using sophisticated AI algorithms, and schedules agent shifts across multiple sites with appropriate skills to manage and optimize the level of customer service resources in multi-skilled environments. It measures agent and team performance and provides real-time change management to proactively respond to changing conditions. Supports today's complex needs for forecasting and scheduling multi-skilled agents, an 'anywhere' workforce and frequent intra-day volume changes.
Employee Engagement Management	Real-time analysis and management of understaffing and overstaffing which provides adaptive and proactive intra-day scheduling that supports agent needs and preferences while also ensuring that a company's operational goals and KPIs are achieved. The application also allows self-management of schedules through an intuitive mobile application and an intelligent automation engine anytime, anywhere and on-the-go, allowing employees to perform sophisticated transactions like shift bidding and shift swaps, setting preferences, reporting absences, and receiving immediate confirmations.
Quality Central	Automates contact center quality assurance processes and selection of interactions for evaluation based on performance data. Leveraging NICE's innovative and leading AI and machine learning engines to measure agent behavior and performance, the solution facilitates root-cause evaluation, with easy drill down to agents and interactions missing their key performance indicator targets. Quality programs can improve agent performance results across voice, email, chat, and digital social media channels, and can help identify areas for improvement for remote agents working from home.



Nexidia Analytics	Analyzes large to massive quantities of customer interactions across multiple channels to identify hot topics and root causes quickly, and to produce actionable insights. Driven by NICE Enlighten, the first comprehensive AI framework for customer engagement, Nexidia Analytics can interpret and predict consumer and agent behaviors by objectively measuring all customer interactions, consistently, efficiently, and without bias. With this information, businesses are able to uncover the insights they need to improve processes, enhance customer experience, increase sales, increase employee engagement, reduce attrition, optimize marketing campaigns and reduce operational costs. Nexidia Analytics can also process live customer voice interactions in real-time, identifying opportunities to improve the Customer Experience, increase sales, and ensure compliance – all while the agent is still speaking with the customer.
Back Office Proficiency Essentials	Automates manual processes of the Back Office employees by integrating data from employees’ desktops, improving forecast accuracy by using actual processing data, enabling managers to view and manage productivity and mastery, and empowers back office employees to improve and take charge of their own performance. It also provides tools to ensure regulatory compliance and accuracy, elevating the level of service customers receive across the entire enterprise.
Real-time Authentication (RTA)	Provides end-to-end authentication for contact centers. Based on voice biometrics, it automatically verifies the caller’s claimed identity within the first few seconds of a call through natural conversation with an agent. Leveraging its unique Single Voiceprint capability, RTA uses the same voiceprint across channels, allowing effortless authentication on the IVR or mobile application. Combining voice biometrics with additional authentication factors, RTA offers risk-based authentication across multiple channels. It improves the level of security and reduces operational costs.
NEVA (NICE Employee Virtual Attendant)	NEVA is an avatar interface, addressing attended processes taking place on the employee’s desktop. NEVA is triggered automatically by the employee’s desktop actions, providing relevant, contextual guidance for efficiency, sales and compliance, in real-time. Leveraging external integrations, the employee can alternatively activate NEVA using chat or voice. NEVA overlooks an agent’s desktop activities and pops up with guidance in the context of the live customer interaction or the process the employee is working on. This solution will automate desktop activities when appropriate or will trigger an unattended bot to complete a task and free the employee to deal with higher value activities. It is especially relevant for today’s remote workforce, where supervisor’s help may not be readily (or physically) available. NEVA includes a process discovery tool, named Automation Finder, to identify additional process optimization candidates using unsupervised machine learning algorithms. Once a process for optimization is identified, it can be built in a click, using the Automation Finder ‘Click-to -Automate’ capability. The automation flow is transferred and built automatically in NICE’s design tool - Automation Studio. NEVA comes built-in with Automation Studio and a control room for overseeing the robots’ activities and performance.
Robotic Automation	Robotic solution for automating routine back office, and Contact Center processes. Operated on virtual machines and monitored centrally, these robots handle unattended end-to-end processes, essentially performing any routine task which the human user would otherwise do manually. These processes are typically the repetitive, mundane, error-prone processes which do not require human intervention. We also provide a unique, intelligent, AI-infused diagnostic tool that accurately pinpoints which processes should be automated for an immediate and long term optimization. NICE RPA includes an embedded OCR engine for using scanned documents and unstructured data in the automated flow. NICE’s RPA suite of solutions includes an unattended RPA solution, as well as an attended automation solution, named NEVA. NEVA is installed on users’ desktops, providing desktop automation and process guidance to support employees in real-time, as they work through their daily activities.

Desktop Analytics	Identifies desktop productivity gaps and process best practices by monitoring and collecting data about employee daily activities: for any applications used (including specific pages within the application), web sites visited, computer idle/locked mode, as well as the time the employee spent in each application/state. Applications can be classified as productive/non-productive or non-work related. For work-from-home employees, Desktop Analytics can provide visibility into their daily activities for managers and supervisors alike.
Interactive Voice Response (IVR) Analytics	Enables organizations to reduce customer effort by increasing IVR containment rate, reducing IVR repeat calls, agent transfers, drop-offs and deflections and dramatically improving Contact Center efficiency.
Sales Performance Management	Provides the end-to-end ability to create, manage and distribute all aspects of a commissions program. It automates the process of sales territories, quotas, commission, bonus and incentive administration, in support of any type of variable pay system that rewards employees for achieving targets aligned with the business strategy.

## 5. Improve Customer Experience

Solutions and Capabilities	Description
Predictive Behavioral Routing (PBR)	Predictive Behavioral Routing is AI-driven routing that predicts the best match between customers and agents for smarter connections and immediate business results. Using all available data sources, including the industry's largest proprietary consumer behavioral database, Predictive Behavioral Routing uses AI to predict the best customer-agent match in real-time. The results are immediate improvements to key contact center metrics that measurably benefit an organization's bottom line.
Satmetrix Voice of the Customer	Collects, combines and analyzes comprehensive customer feedback data from multiple interaction touch points and channels across customer life-cycle at enterprise scale; proactively solicits direct customer feedback from any touch point, including text message, email, IVR, mobile app, and online forms in scheduled cadences or immediately following an interaction through their channel of choice; and leverages indirect and inferred feedback. Delivers analytics that allow organizations to understand and operationalize business practices and behaviors that drive customer loyalty, using metrics including Net Promoter Score® (NPS®), customer satisfaction, Customer Effort Score, or custom metrics. Drives strategic and operational improvements to increase retention and revenue opportunities. Delivers insights across departments with role-specific analytics, reporting, and alerts.
Customer Journey Analytics	Helps organizations optimize their overall customer interactions process across multiple touch points. The solution automatically constructs and visualizes a cross-channel map of the customer journey, providing insights into trends and focus areas for improvement. Based on NICE's innovative and leading AI and machine learning engine, NICE Journey Excellence Score (JES) uses predictive models to measure customer experience at the journey level, identifying successful outcomes and highlighting journey events that cause failure and customer dissatisfaction. JES's models automatically assign contact reasons to every interaction, revealing customer behavior patterns, predicting customer's next action and the ideal response for achieving the desired goal. The solution highlights opportunities for self-service channel containment and offers real-time guidance for an improved customer experience.
Customer Churn	Based on NICE's comprehensive AI framework for customer engagement, NICE Enlighten for Customer Retention analyzes historic consumer defection data to identify the patterns in consumer behavior and create models for predicting future customer churn. The solution understands causes and effects of customer churn and how to design procedures to reduce the defection rate. The solution prioritizes at-risk customers based on search results combined with customer data and collects information to refine retention marketing offers that are better tailored to customer types and demographics.

## 6. Increase Sales

Solutions and Capabilities	Description
Real Time Web Personalization	Uses customer intelligence, predictive models and machine learning to make insightful, real-time personalization decisions during customer interactions over the Web. The solution helps organizations improve customer retention, increase online conversion rates, and deliver better service by taking the next-best-action.
Contact Center Sales Effectiveness	Helps organizations optimize their Contact Center sales campaigns. Based on NICE’s comprehensive AI framework for customer engagement, NICE Enlighten for sales effectiveness locates and quantifies sales improvements by identifying the optimal agent behaviors that drive Contact Center sales in each environment. The solution builds metrics to align with corporate objectives such as offers made versus up-sell opportunities. It correlates data points such as customer spend and purchase history to build predictive models, prioritizing customers with a propensity to buy and creating the next-best offer. It also helps identify high-performing agents and generate sales best practices based on their behavior.

## 7. Improve Public Safety Emergency Response and Manage Data Throughout the Criminal Justice Process

Solutions and Capabilities	Description
NICE Investigate	Streamlines the entire investigation process by automating the collection, analysis and sharing of all digital case evidence – from Records Management Systems, CAD, interview room and emergency call audio recordings, documents, photos, private and public CCTV, body-worn and in-car video, social media and more. It transforms the investigative process so detectives can build and close cases faster.
NICE Inform	Enables emergency centers and public safety agencies and organizations across various industries to capture, consolidate, synchronize and manage growing multimedia incident information and evidence efficiently and effectively. NICE Inform captures and synchronizes event information from a variety of sources including: radio and call audio, video, text, screens, Computer-Aided Dispatch (CAD) systems, Geographic Information Systems, and others, enabling investigators and other stakeholders to more easily and completely visualize and understand what happened during each incident response. NICE Inform also supports investigations through rapid assembly and sharing of case evidence. Helps optimize emergency response by evaluating quality and compliance of incident communications – saving time, money and resources, while continuously fine-tuning and improving performance to provide better service to first responders and the public.
NICE Inform Intelligence Center	Automatically collects and consolidates information from emergency call taking, radio, dispatch, quality assurance and other systems, and delivers critical metrics in actionable dashboards and reports. It helps emergency communication centers understand what happened during an incident, how it happened, what is happening now in the center, and what is performing or not. With this new insight into operations, decision makers can address the key challenges to improve their centers’ effectiveness during an incident, service to citizens and work more efficiently with the agencies for which they dispatch.
NICE Multimedia Recording	Reliably records and synchronizes emergency calls, including digital, analog, and VoIP calls, conventional and P25 radio transmissions, text interactions, video, images, console screens, locations from geographic information systems, and integrated feeds from other sources such as CCTV video. NICE multimedia recording also spans all forms of next generation emergency communications in a unified solution, including inbound and outbound text messages agnostic to text aggregation solutions or delivery methods. NICE Inform also synchronizes this information into a complete timeline enabling stakeholders to more easily and completely visualize, understand and improve incident response.

## II. Offering Overview - Financial Crime and Compliance

Financial services organizations are regularly challenged with prevention of fraud and money laundering, and capital markets compliance adherence. They have a common need for risk management solutions that will help them stay ahead of the evolving landscape of threats and effectively adapt to changes in business and regulatory requirements to protect their organization, safeguard their customers and ensure the integrity of the financial services industry.

Furthermore, many organizations that are not traditional financial institutions, including alternative payment platforms, cryptocurrency exchanges, gaming, fintech companies and others, find themselves under similar threats and under increasing regulatory scrutiny and need to quickly adjust and ensure adherence with those requirements.

We are a global leader in AI-based applications for fighting financial crime and ensuring compliance. We provide organizations with proven capabilities for real-time and cross-channel fraud prevention, anti-money laundering, capital markets compliance and enterprise-wide case management. With this set of solutions, financial institutions can tighten risk controls, lower operational and information technology costs, enhance investigation efficiency and improve their customers' experience.

We serve the Financial Crime and Compliance needs of hundreds of organizations, including many of the world's top financial institutions, regulatory authorities and emerging fintech companies. Our solutions monitor billions of financial transactions daily, enabling organizations to mitigate the risk of financial crime, improve compliance and reduce operational costs.

Our open, AI- cloud platform serves as an end-to-end Financial Crime and Compliance solution. This allows our customers to use a unified platform instead of integrating multiple solutions, whether home-grown or from third-party vendors. The NICE Actimize platform handles the entire process, including detection, investigation, remediation and reporting, which allows our customers to improve detection, lower costs, keep tight controls over their process and automate regulatory reporting.

In 2018, we introduced X-Sight, the market's first cloud-based Financial Crime Risk Management Platform-as-a-Service (PaaS) that enables financial services organizations to transition to the cloud. X-Sight incorporates AI, advanced analytics, automation and natural language processing capabilities into our platform, allowing organizations to improve detection, reduce false positives and automate many previously manual routine tasks. In addition, our ActOne offering introduces analytics and automation to financial crime investigation processes.

Our X-Sight AI solution, Actimize Watch, allows us to better protect financial institutions from criminal threats by leveraging the cloud and machine learning technologies. Organizations that subscribe to the cloud delivered service benefit from our data scientists optimizing their analytics and creating new machine learning models that can be seamlessly deployed in their production environment. Actimize Watch customers further benefit from the collective intelligence of Actimize and peer organizations, as new threats that are detected are shared with all other customers of the service. As such, Actimize Watch serves as an inoculation, protecting all organizations from an attack perpetrated against a specific organization. We also introduced X-Sight AI Studio to the market in 2019, which is a feature-rich development environment for machine learning analytics that includes data science workflows from data preparation through analytics containerization and deployment into the Open AI engine with in all Actimize solutions. It is the same environment Actimize data scientists leverage in Actimize Watch provided as a self-service tool for our customers.

Mid-size financial institutions are finding themselves under increased pressure to adopt compliance best practices. Our Xceed platform is a native cloud, AI- Financial Crime and Compliance platform that provides AML and Fraud coverage, enabling smaller organizations to enjoy the capabilities previously only afforded to large organizations in a fully packaged SaaS offering.

We plan to continue to expand our addressable market by providing cloud solutions to non-traditional financial institutions. We also expand our value to our customers by leveraging AI, the cloud and robotic automation which facilitate both better protection and significant cost reductions.

## **Our Platforms' and Solutions' Core Capabilities**

**X-Sight:** open, flexible and scalable, AI- cloud platform for Financial Crime and Compliance that enables top tier financial services organizations to expand the use of NICE Actimize solutions over time. The flexibility of X-Sight allows organizations to choose the solutions and services that meet their unique needs while easing implementation and lowering total cost of ownership. X-Sight solutions provide hundreds of out-of-the-box analytical models as well as flexible tools that can be used to develop and customize analytical models, data sources, and business processes at both the business and IT levels.

**Xceed:** Cloud-native platform that brings together AI, data intelligence, analytics, machine learning and insights for AML and fraud coverage for the mid-market. The solutions on Xceed provide all the protection that larger organizations receive but are fully packaged for smaller firms to realize immediate value.

**Always on AI:** NICE Actimize's multi-layered approach injects AI and other advanced technologies throughout the financial crime and compliance value chain. Actimize solutions are infused with AI, machine learning, automation, Natural Language Processing and more, from the data layer, through insights, through decisioning to investigation and reporting to detect and prevent financial crimes. By leveraging AI and merging data, analytics and automation technologies, financial services organizations can increase detection, improve their operational efficiencies, and reduce costs. Raw data becomes actionable intelligence by applying machine learning, advanced analytics and automation. This innovative process creates a unique environment that more effectively addresses the challenges and pain points that financial services organizations face and allows them to lower costs and drive greater profitability, all while improving accuracy and throughput. NICE Actimize solutions also allow organizations to configure which decisions to direct to human experts, supporting semi-autonomous to fully autonomous operations.

**Domain-specific AI:** Comprehensive, domain-specific solutions detect anomalous customer or employee behavior in real time, leveraging industry-proven supervised and unsupervised machine learning analytics.

**Real-time decisioning and enforcement:** A real-time decisioning engine draws on analyzed data to trigger alerts that enable optimal enforcement and resolution. Built-in capabilities for comprehensive workflow and investigation allow effective alert management.

Solutions are available individually or as an integrated whole.

## **Addressing Business Needs**

Our X-Sight platform and solutions are designed to address various organizational business initiatives. Below is a list of the currently available NICE Financial Crime and Compliance X-Sight solutions that support the high end of the market, grouped by these main initiatives:

### **1. Investigations and Case Management**

Solutions and Capabilities	Description
ActOne	Enables organizations to better manage and mitigate organizational risk by providing a single view across the business. It serves as a central platform for managing alerts, cases, investigations, and regulatory reporting, across multiple lines of business, channels, products, and regions, turning them into actionable insights.
ActOne Extend	Extends the capabilities of ActOne to be the centralized location of investigation management across the Financial Crimes Risk and Compliance domains and provides a unified view of risk that enables analysts to make efficient decisioning. Includes workflow customization and the ability to ingest third-party alerts and cases via APIs, the plug-in SDK, and the Email Ingest tool.
ActOne Automate	Comprehensive Financial Crimes automation suite of tools that are embedded directly on the ActOne case management platform. It includes tools to identify process bottlenecks, intelligently allocate work, and develop automation. Contains both attended robots and unattended robots. Attended robots are digital assistants that live in the case manager on analyst desktops and collaborate with them as needed during the day. Unattended robots are a digital workforce, working 24/7 without human intervention. The solution also includes Automation Finder, a data driven analytics based tool that enables organizations to quickly identify activities that would benefit from automation, thereby reducing the time and effort.
ActOne Design	Visual analytics capability to design real-time, interactive reports and dashboards on top of the centralized dataset directly in ActOne. ActOne Design allows organizations to examine linkages and entities throughout the investigation, monitor operational performance, and analyze financial crime trends within their unique alerting activity.
Quality Assurance (QA)	Helps risk and compliance teams create a truly closed-loop, end-to-end investigation process. With it, compliance and quality teams can collaborate in order to reduce re-opens, work more efficiently and lower risk. The QA solution enables QA analysts to conduct fully integrated quality reviews at any point within an investigation. Business logic and workflow guide the QA analyst and a questionnaire enables them to assess quality and provide feedback to investigative teams - all on the same platform, fostering a culture of continuous improvement.
Productivity Studio	Allows organizations to increase speed and efficiency, without compromising on accuracy. Teams are empowered to understand their productivity by seeing gaps and bottlenecks in their workflows, as well as patterns and trends in their activities.
Notifications and Attestations	With Actimize Notifications and Attestations, management and internal audit can gain oversight of their teams, ensuring everyone is aligned; teams can mitigate risk by lowering organizational and personal accountability risk; and teams can improve their efficiency with quick access to all past and present notifications without leaving the case management platform.

## 2. Detect and Prevent Money Laundering

Solutions and Capabilities	Description
Suspicious Activity Monitoring	Leverages AI and transaction analytics to offer end-to-end coverage for detection, scoring, alerting, workflow processing and reporting of suspicious activity to make sure nothing 'slips through the cracks'. It supports the full investigation life cycle and, with NICE's integrated case management platform, improves staff productivity, allowing for compliance with regulatory obligations in a cost-effective manner.
Watch List Filtering	Provides enterprise-wide party and payment screening against global sanctions, and PEP (Politically Exposed People) lists as well as adverse media for real-time screening coverage. It leverages AI, including machine learning analytics, facial biometrics and advanced automation to identify and manages sanctioned or high-risk individuals and entities, enabling organizations to provide superior risk management and prevent non-compliance occurrences.
Customer Due Diligence	Provides integrated customer risk-based rating and continuous monitoring of accounts throughout the entire customer life-cycle, from initial applicant onboarding to periodic reviews of existing customers. It is an open, flexible solution infused with AI to adapt to unique requirements across business segments, regions, and jurisdictions.
CTR Processing and Automation	Provides seamless automated Currency Transaction Reporting (CTR) processing to ensure compliance with U.S. Bank Secrecy Act standards, and to optimize CTR processes for efficiency and cost-effectiveness. This allows for the reduction in manual intervention and errors. Built-in validation tools and flexible capabilities enhance the quality and timeliness of completed reports while letting organizations adapt to changing regulatory and business needs.
Suspicious Transaction Activity Reporting	Global regulatory reporting forms. Provides operational efficiency needed to handle the increase in form filing requirements, including e-filing where applicable.
ActimizeWatch for AML	A managed analytics service to address FSOs' challenges in keeping their Anti-Money Laundering (AML) analytics optimized so organizations can adapt to changing environments. This service brings data scientists to organizations that may find it restrictive to build out their own data science teams and pair them with AML expertise. Managed analytics provides cost-predictability that continuously optimizes the system, whereas existing tuning practices are costly and therefore infrequent and commonly avoided. This service also provides FSOs the ability to benchmark their AML performance against similar institutions, enabling them to self-improve, be more prepared for, and have more confidence around regulatory audits.

## 3. Prevent Fraud

Solutions and Capabilities	Description
ActimizeWatch for Fraud	A cloud-based managed services solution to optimize analytics. ActimizeWatch continuously monitors the transactional data for individual FSOs to assess when analytics must be tuned, and leverages insights from a market-wide view to proactively optimize analytics for members of the service. ActimizeWatch uses machine learning analytics to assess cross-market transactional data and identify fraud patterns within individual organizations and across the market. ActimizeWatch proactively optimizes analytics using automation for quick delivery of implementation-ready models and features.

IFM-X Card Fraud	<p>Enables card issuers, acquirers and processors to detect fraudulent transactions, whether ATM, PIN, signature point-of-sale, or without a physical card. Market leading profile based behavioral analytics take into account all available transaction, reference and location data to provide holistic coverage of card and account takeover. Solution includes the Actimize Digital &amp; Mobile Wallet Fraud, which protects customers from digital account takeover and organizations from fraud liability and negative brand reputation. Monitors and protects a full range of wallet activity, including card/account provisioning, card present and not present purchases, person-to-person transfers, bill payments, and account-service events.</p> <p>The Actimize Pre-Paid Card Fraud solution identifies and prevents fraud in the pre-paid sector. From ATM to point-of-sale (POS) and Card-Not-Present (CNP), all transactions can be identified, interdicted on and alerted in real time.</p>
IFM-X Digital Payments Fraud Solutions	<p>Provides end-to-end protection against third-party fraud on any type of payment (like ACH, Wire, P2P, SEPA, TCH/RTP and more) tailored for the specific needs of retail and commercial banks. The Actimize Digital Payments Fraud solutions protect the full lifecycle of the transaction, both at the customer accessing channels – online portal, mobile app, APIs, IVR, Contact Center – and at the backend, at the payment hub level. Using our unique expert-infused machine learning analytic we calculate a real-time risk score for every transaction and provide customers with a turnkey solution to resolve alerts and investigate fraud cases. Our solutions serve as a central “risk hub” that enables the sharing of internal and third-party data from multiple channels for fraud and cyber detection, operations, and investigations. By accurately and efficiently coordinating customer lifetime value, transaction amounts and service history, the solution optimizes fraud prevention by offering greater insight into cross-channel authentication and facilitates interdiction strategies.</p>
X-Sight Studio	<p>Enables customers to expand their Actimize Fraud solutions with their own models and analytics. The DIY studio also enables our customers to develop a fraud solution for use cases which go beyond the available packaged Actimize fraud solutions.</p>
IFM-X Employee Fraud	<p>Offers advanced analytic monitoring capabilities and flexible configuration options to detect fraudulent employee activity and violation of corporate policy across the enterprise, business lines, and channels. Comprehensive investigation tools are supported by multichannel data ingest, multi-country data and policy requirement configurations, secure and auditable user access levels, and automated configurable workflows, enabling banks to efficiently sift through employee audit reports and build cases to support fraudulent employee activity.</p>
IFM-X Check Fraud	<p>Helps financial institutions minimize deposit fraud losses by providing comprehensive account activity monitoring. The solution analyzes risk across silos of data and lines of business, consolidates suspicious activity notifications into account and customer level alerts, and allows real-time decisioning to safely accelerate fund availability and enhance customer satisfaction.</p>
IFM-X Authentication-IQ	<p>Manages multiple authentication methods and risk-based decisions by creating a complete customer profile, based on historical authentication activity, account servicing, and transactional behavior which is then used to identify suspicious behavior at log-in or throughout a session, producing real-time actionable risk scores. In addition, the solution manages the process of step up authentication, choosing the appropriate method, producing alerts and enabling real-time interdiction. Finally, it provides alert and case management in a unified context to prioritize investigations and optimize workflow across the enterprise.</p>
IFM-X New Account Fraud	<p>New Account Fraud offering provides a multi-layered approach to detect stolen and synthetic identities during account origination and new account phases through. This is a multilayered solution, that provided Identity Proofing, Early Account Monitoring, and Enhance Ongoing Monitoring.</p>



#### 4. Adhere to Financial Markets Compliance

Solutions and Capabilities	Description
Holistic Surveillance	Provides a holistic view across trade, voice and eCommunications data, proactively analyzing all trading interactions, while monitoring the full trade life cycle in conjunction with relevant news events. SURVEIL-X's AI-powered multi-dimensional analytics go far beyond looking at one-time events, calculations and thresholds to analyze and correlate communications, trade and related data streams. Deeper analysis and correlation enable the identification of true risks and understanding of intent behind actions taken. Uncovers connected activities and actions, and pieces them together without manual intervention, delivering a single compliance alert and view of what occurred with intuitive visualizations showing events together with market data.
Communications Surveillance	Monitors trading activities and behaviors by analyzing conversations from trading turrets, fixed and mobile phones, email, text, instant messaging, chat and social media using speech analytics, machine-learning and natural language processing. It automatically extracts details of financial transactions and highlights potential risks, enabling compliance officers and analysts to see emerging trends so that compliance breaches and fraud can be averted while keeping false positives at a minimum. It also enables organizations to meet global regulatory requirements with fully auditable workflows and reporting functionality that fulfill the needs for a robust supervision and investigation process. Additionally, the technology learns and adapts to customer data and allows more accuracy over time.
Markets Surveillance	Helps financial organizations meet global regulatory requirements and protects from reputational damage and financial losses by searching for abusive trading patterns. The solution provides Full Asset Class coverage to address the global regulatory requirements including both exchange traded products and OTC (over-the-counter) trades. Specialized analytics are designed to process today's HFT (high frequency trading) volume and detect different types of risks, including Spoofing, Layering, Fictitious Orders and more. The solution also addresses the complex requirements around Insider Dealing news based, Cross Market/Cross Product and Frontrunning. Our patented correlation engine automates the reconstruction process and helps the Compliance Analyst understand the intent behind a suspicious trade by creating the full life cycle of a trade, including communication events.
Enterprise Conflicts Management	Offers a unified approach to maintain controls and detect conflicts of interest before they occur on a global, enterprise-wide scale. Enables organizations to effectively manage employee requests for personal trades by evaluating details of the proposed trade in real time and automatically determining whether the request should be approved, rejected, or escalated to a supervisor for approval. The solution includes detection models that compare executions with the employee's trade request history to determine if the trade was pre-cleared and approved, and to reconcile the trade details with the terms and conditions of the approved trade request.
Suitability Surveillance	Provides coverage for a broad range of sales practices and suitability issues, including Regulation Best Interest (RegBI) compliance, helping organizations meet current and future global regulatory requirements and ensure investment recommendations are consistent with each customer's suitability profiles. It also includes a comprehensive toolset that allows organizations to automate sales practice compliance processes, extend out-of-the-box analytics and visualize overall risks. By automating oversight and supervision, organizations can ensure consistency and maintain a consolidated audit trail, lowering regulatory risk while improving productivity and efficiency.

Behavioral Surveillance	Unique end-to-end managed analytics service designed to improve organization's agility to detect risky employee behavior across multiple streams of data and potential alerts. NICE Actimize's behavioral surveillance approach helps organizations continuously monitor employee behavior by leveraging advanced profiling and machine learning techniques. Our team conducts a thorough analysis of a client's data, NICE Actimize Alerts, third party alerts, and other sources to help assess and identify risky behavior of the employee, organization and overall firm.
Trade Reconstruction	Dramatically reduces time and effort spent identifying and collecting needed data related to trading activity. Trade Reconstruction simplifies the reconstruction of a trade by aggregating, normalizing, analyzing, indexing and correlating data across structured and unstructured data sources. Natural language processing is used to extract financial data out of voice and electronic communications in order to correlate to trade events, enabling organizations to quickly react to regulatory or legal inquiries.
Analytics Studio	SURVEIL-X Studio closes regulatory and internal business surveillance coverage gaps by enabling financial services firms to rapidly create, test and deploy custom analytical risk detection models. With SURVEIL-X Studio, business analysts no longer need technical expertise to build models.

Our Xceed platform and solutions are designed to address various organizational business initiatives. Below is a list of the currently available NICE Financial Crime and Compliance Xceed solutions that support the small and mid-segment of the market:

#### 5. Provide AML & Fraud for the Mid-Market and SMB's

Solutions and Capabilities	Description
Xceed Online Retail Banking	Identifies anomalous behavior related to the use of retail accounts. The primary model entity is an individual customer accessing one or more retail accounts through an online retail banking application.
Xceed Online Business Banking	Focuses on detecting fraud in multi-user business banking where a company's employees have different levels of entitlements and access privileges. The model includes support for complex transaction lifecycle management. The primary model entities are a company and its employees managing banking activities and payments through an online business banking application.
Xceed Mobile Retail Banking	Focuses on identifying fraudulent activity by an individual originating from one or more mobile devices. The primary model entity is a retail customer accessing one or more personal accounts through a mobile banking application.
Xceed Mobile Business Banking	Focuses on detecting fraud in a multi-user business banking environment where a company's employees are accessing commercial accounts through a business mobile banking application.
Xceed ACH ODFI	Detects fraud in transactions processed through the Automated Clearing House (ACH) network. The primary model entity is an ACH originator. The model is designed to detect anomalies related to NACHA-formatted files, ACH batches, and batch entries. This solution provides protection for online and offline channels of ACH origination.
Xceed ACH RDFI	Detects fraud for received ACH transactions. The primary model entity is an ACH recipient. The model is designed to detect anomalies related to NACHA-formatted files, ACH batches, and batch entries. This solution provides protection for online and offline channels for received ACH transactions.
Xceed Wire	Detects fraud for outbound, inbound, or book wire transfers. The primary model entities are originators or beneficiaries. The model is designed to detect anomalies related to funds transfers. This solution provides protection for online and offline channels of wire transfers.
Xceed Check	Detects anomalous transactions for both check deposits and withdrawals. The Xceed Check model does not rely on static fraud rules and can evaluate specific check kiting scenarios, calculate risk to flag a potential check fraud, provided that the necessary data requirement is met by the financial institution or its check processing vendor.
Xceed Evidence Lake Customer Due Diligence	Real-time customer due diligence (CDD) including a configurable KYC template, CDD risk factors and alert thresholds. Xceed Evidence Lake CDD can be used for onboarding and ongoing risks, as well as real-time CDD alert generation.
Xceed Evidence Lake Sanctions Screening	Monitors customers for sanction violations by validating an individual or organization against the specially designated nationals list administered by OFAC.

#### Strategic Alliances

We sell our Customer Engagement and Financial Crime and Compliance platforms and solutions worldwide, both directly to customers and indirectly through selected partners to better serve our global customers. We partner with companies in a variety of sales channels, including service providers, system integrators, consulting firms, distributors, value-added resellers and complimentary technology vendors. These partners form a vital network for selling and supporting our solutions and platforms. We have established a cross-organization business partner program to support our ever-growing ecosystem even better in these times of change, providing a full range of tools and benefits to help promote the NICE offerings and drive mutual revenue growth and success.

Our strategic technology partnerships ensure full integration with the NICE offerings, delivering value added capabilities that enable them to provide our customers with an improved set of solutions and services.

Our DEVone program, comprising more than 160 partners, allows third-party software providers to integrate with our CXone platform and extend its functionality, while our newly established Actimize X-Sight Marketplace platform hosts market leading vendors in the AML and Fraud domains that complement the Actimize solution suite.

## **Professional Service and Support**

The NICE Professional Services and Support organization enables our customers to derive sustainable business value from our solutions.

The Professional Service and Support offerings include a variety of services - both standalone and bundled with our products - to enable our customers to create sustained business value. We address all stages of the technology lifecycle, including defining requirements, planning, design, implementation, customization, optimization, proactive maintenance and ongoing support.

### ***Enabling Value***

**Solution Delivery** optimizes solution delivery and enables our customers to achieve their specific business and organizational goals, on time and on budget. NICE solutions are delivered by certified project managers, technical experts, and application specialists. We follow a proven methodology that includes business discovery to map solutions to business processes.

**Value Realization Services (VRS)** ensure quick, deep and sustained adoption of the NICE solutions. These services enable our customers to leverage the features and functionalities of our solutions to drive immediate & long-term results, aligned to their specific business case, accelerating their return on investment. The services are specifically designed to address the top short and long-term business concerns we heard through working with hundreds of customers across the globe. VRS teams work with customers during all phases of solution implementation – before, during and after go-live. We begin working with customer teams as soon as the project is kicked off, when the solution goes live, and for months after the solution is implemented. Our experience has shown that our customers benefit greatly from access to NICE VRS resources once they begin using the solution. This post-implementation engagement allows us to build skill and ownership within customer teams, embed changes within the customer organization and determine ROI from the solution.

**Managed Services** empowers organizations to meet short term objectives, such as lowering handle time or improving sales rates, along with achieving long term goals such as customer retention. Our team of experienced practitioners work with customers, guiding the process of collecting interactions, prioritizing subjects to study, conducting analysis and most importantly, developing plans that put the results of the analysis into action.

**Customer Education Services** provide users with the necessary knowledge and skills to operate NICE solutions and to leverage their capabilities to meet customer needs. These services are offered both before and after the deployment of NICE solutions.

### ***Sustaining Value***

**Customer Success** means working hand-in-hand with our customers to identify areas where they can maximize business value and minimize complications, ensuring continued delivery of business benefits.

**Cloud Operations** ensure that solutions deployed on the NICE cloud run optimally and allow seamless software upgrades, maximizing availability, performance and quality, while ensuring the security of customer information. This is delivered by using sophisticated proprietary utilities and automations that operate in a proactive manner, providing the means to avoid impacting customer and business operations. This includes: Cloud architecture teams that design cloud service delivery and operation architectures; Cloud Security teams that ensure that we set and meet the required Security certifications; Cloud Infrastructure teams that manage both virtual and physical infrastructure requirements; Cloud DevOps teams that implement the utilities and automations while working with our product development teams to optimize our solutions for the cloud environment; and the 7X24 Cloud Application Support teams that monitor and manage the solutions for our customers, ensuring world class up-time, performance, scalability and security. The NICE Cloud utilizes multiple

underlying technologies to give our customers many paths to the cloud – these include: Physical Data Centers and Public Cloud providers such as AWS and Azure. NICE maintains multiple Cloud Certifications including SOC 2 Type II – Applications; HITRUST; ISO:27001 and PCI.

**Customer Support and Maintenance** responds to customer requests for support on a 24/7 basis, using advanced tools and methodologies. NICE offers flexible service level agreements to meet our customers’ needs. Our solutions are generally sold with a warranty for repairs of software defects or malfunctions. Software maintenance includes an enhancement program with (in the majority of cases) an ongoing delivery of “like-for-like” upgrade releases, service packs and hot fixes. NICE also offers a Technical Account Management service or TAM. The TAM is a designated manager responsible for escalation management and overall customer care services.

**Proactive Maintenance** addresses issues before they can significantly impact our customers’ businesses. These offerings include:

- **Advanced Services** – Technical experts perform system-level audits to ensure ongoing compliance with operational specifications as well as specific product customizations tailored to the requirements of the customer.
- **Application Performance Services** – A 24/7 function that proactively monitors NICE-hosted and customer-premises environments with triage, resolution and escalation of system alarms.

**Managed Technical Services (Technical and Operation)** – NICE offers a suite of managed technical and operation services that enable the customer to fully outsource all necessary responsibilities and functions required in order to manage the NICE solutions. This service includes: dedicated onsite and remote support engineers, system management, system operation, updates and upgrades.

### **Manufacturing and Source of Supplies**

The vast majority of our solutions is software-based and is deployed by open cloud platform and standard commercial servers.

There is a small portion of our products that have certain hardware elements that are based primarily on standard commercial off-the-shelf components and utilize proprietary in-house developed circuit cards and algorithms, digital processing techniques and software. These products are IT-grade compatible.

We manufacture those of our products that contain hardware elements through subcontractors. Our manufacturers provide us with turnkey manufacturing solutions including order receipt, purchasing, manufacturing, testing, configuration, inventory management and delivery to customers for all of our product lines. NICE is entitled to, and exercises, various control mechanisms and supervision over the entire production process. In addition, the manufacturer of a significant portion of such products, which is a subsidiary of a global electronics manufacturing service provider, is obligated to ensure the readiness of a back-up site in the event that the main production site is unable to operate as required. We believe these outsourcing agreements provide us with a number of cost advantages due to such manufacturer’s large-scale purchasing power and greater supply chain flexibility.

Some of the components we use have a single approved manufacturer while others have two or more alternatives for supply. In addition, we maintain an inventory for some of the components and subassemblies in order to limit the potential for interruption. We also maintain relationships directly with some of the more significant manufacturers of our components. Although certain components and subassemblies we use in our existing products are purchased from a limited number of suppliers, we believe that we can obtain alternative sources of supply in the event that such suppliers are unable to meet our requirements in a timely manner.

We have qualified for and received the ISO-9001:2015 quality management, as well as the ISO 27001:2013 information security management and ISO 14001:2015 environmental management certifications.

## **Research and Development**

We believe that the development of new products and solutions and the enhancement of existing products and solutions are essential to our future success. Therefore, we intend to continue to devote substantial resources to research and new product development, and to continuously improve our systems and design processes in order to reduce the cost of our products. Our research and development efforts have been financed through our internal funds and through some programs sponsored through the government of Israel.

We believe our research and development effort has been an important factor in establishing and maintaining our competitive position

We participate in programs funded by the IIA to develop generic technology relevant to the development of our products. Such programs are approved pursuant to the Law for the Encouragement of Industrial Research and Development, 1984 (the “Research and Development Law”), and the regulations promulgated thereunder. We were eligible to receive grants constituting between 40% and 50% of certain research and development expenses relating to these programs. Some of these programs were approved as programs for companies with large research and development activities and some of these programs are in the form of membership in certain Magnet consortiums. Accordingly, the grants under these programs are not required to be repaid by way of royalties. However, the restrictions of the Research and Development Law described below apply to these programs.

The Research and Development Law generally requires that the product incorporating know-how developed under an IIA-funded program be manufactured in Israel. However, upon the approval of the IIA (or notification in the event set forth below, as the case may be), some of the manufacturing volume may be performed outside of Israel, provided that the grant recipient pays royalties at an increased rate, which may be substantial, and the aggregate repayment amount is increased). Following notification to the IIA (and provided the IIA did not object), up to 10% of the grant recipient’s approved Israeli manufacturing volume, measured on an aggregate basis, may be transferred out of Israel, subject to payment of the increased royalties referenced above.

The Research and Development Law also provides that know-how developed under an approved research and development program may not be transferred to third parties without the approval of the IIA. Such approval is not required for the sale or export of any products resulting from such research or development. The IIA, under special circumstances, may approve the transfer of IIA-funded know-how outside Israel, including, in the event of a sale of the know how or sale of the grant recipient, provided that the grant recipient pays to the IIA a portion of the sale price, which portion will not exceed six times the amount of the grants received plus interest (or three times the amount of the grant received plus interest, in the event that the recipient of the know-how has committed to retain the R&D activities of the grant recipient in Israel after the transfer).

The Research and Development Law imposes reporting requirements with respect to certain changes in the ownership of a grant recipient. The law requires the grant recipient, to notify the IIA of any change in control of the recipient, or a change in the holdings of the means of control of the recipient that results in becoming an interested party (including a 5% shareholder) directly in the recipient. Further, if the interested party is non-Israeli, it requires the party to undertake to the IIA to comply with the Research and Development Law.

## **Intellectual Property**

We currently rely on a combination of trade secret, patent, copyright and trademark law, together with non-disclosure and non-compete agreements, to establish and/or protect the technology used in our systems.

We currently hold 381 U.S. patents and 64 patents issued in additional countries covering substantially the same technology as the U.S. patents. We have 130 patent applications pending in the United States and other countries. We believe that the improvement of existing products and the development of new products are important in establishing and maintaining a competitive advantage. We believe that the value of our products is dependent upon our proprietary software and hardware continuing to be “trade secrets” or subject to copyright or patent protection. We generally enter into non-disclosure and non-compete agreements with our employees and subcontractors. However, there can be no assurance that such measures will protect our technology, or that others will not develop a similar technology or use technology in products competitive with those offered by us. In most of the areas in which we operate, third parties also have patents which could be found applicable to our technology and products. Such third parties may include competitors, as well as large companies, which invest millions

of dollars in their patent portfolios, regardless of their actual field of business. Although we believe that our products do not infringe upon the proprietary rights of third parties, there can be no assurance that one or more third parties will not make a claim or that we will be successful in defending such claim.

In addition, to the extent we are not successful in defending such claims, we may be subject to injunctions with respect to the use or sale of certain of our products or to liabilities for damages and may be required to obtain licenses which may not be available on reasonable terms.

We own the following trademarks and/or registered trademarks in different countries: Actimize, Actimize logo, NICE Adaptive WFO, NICE WFM, NICE Voice of the Customer, NICE Work Force Management, NICE Incentive Compensation, NICE Real Time Solutions, NICE Trading Recording, NICE Uptivity, NICE Air, NICE Communication Surveillance, Customer Engagement Analytics, Decisive Moment, Fizzback, IEX, inContact, inContact Logo, NICE inContact, Insight from Interactions, Intent. Insight. Impact., Last Message Replay, Mirra, NICE, NICE Analyzer, NICE Engage, NICE Engage Platform, NICE Interaction Management, NICE Sentinel, NICE Inform, NICE Inform Lite, NICE Performance Compliance, NICE Inform Media Player, NICE Inform Verify, NICE Logo, NICE Perform, NICE Incentive Compensation Management, NICE Real Time Solutions, NICE Trading Recording, NICE Proactive Compliance, NICE Seamless, NICE Security Recording, NICE SmartCenter, NICE, NiceLog, Nexidia, Nexidia (!!) Logo, Nexidia Interaction Analytics, Nexidia Advanced Interaction Analytics, Nexidia Search Grid, Neural Phonetic Speech Analytics, Own the Decisive Moment, Scenario Replay, Syfact, Syfact Investigator, TotalView, inContact Cloud Center Solutions, Supervisor on-the-go, VAAS, Voice as a Service, Personal Connection, InTouch, Echo, inCloud, CXone, CXone Logo, NICE inContact CXone, NICE Perform Compliance, NICE Performance Management, inContact Automatic Contact Distributor, inContact Personal Connection, inContact Interactive Voice Response, inContact Work Force Management, Mattersight, Mattersight Logo, Mattersight See What Matters and Chemistry of Conversation, Net Promoter, Satmetrix, NPX, NPS, Fraudmap, Guardian Analytics, Evidence Lake, Alacra, Free your business, Resolve, Brand Embassy and Hiperos.

## **Seasonality**

In previous years the majority of our business operated under an enterprise software model, which was characterized, in part, by uneven business cycles throughout the year, with a significant portion of customer orders received in the fourth quarter of each calendar year. This was due primarily to year-end capital purchases by customers and holiday season spending. In recent years, our business has been shifting more and more to the cloud, which is characterized by more evenly distributed business, which balances the impact of being heavily weighted towards the fourth quarter. We believe that this trend will continue in the near future. While seasonal factors such as these are common in the software and technology industry, this pattern should not be considered a reliable indicator of our future revenue or financial performance. Many other factors, including general economic conditions, also have an impact on our business and financial results. See “Risk Factors” under Item 3, “Key Information” of this annual report for a more detailed discussion of factors which may affect our business and financial results.

## **Regulation**

### ***Data Privacy and Cyber-Related Security Restrictions***

We are subject to applicable data privacy and cyber-related security restrictions in countries in which our customers and their end-users are located, including the United States, Israel and the EU, mostly in relation to our SaaS, hosting and cloud-based services, as well as other outsourced services. For example, on April 14, 2016, the European Parliament formally adopted the GDPR, which became effective on May 25, 2018. In the event we do not comply with such data privacy and cyber-related security restrictions, we may be subject to significant financial penalties.

We are also subject to domestic data privacy laws, such as the Israeli Privacy Law, CCPA and the United Kingdom Data Protection Act 2018. We are evaluating the business impact of compliance with the constantly changing data privacy laws and regulations.

As part of our effort to comply with such regulations and mitigate any future risks related to data privacy and cyber-security, we have adopted certain internal policies and procedures such as our Information Security Policies, Cyber & Information Security Incident Response Policies, Business Continuity Plans, Risk Assessment Procedures and Vendor Management Policies. In addition, we received the ISO 27001:2013 information security management certification and SOC2 Type II, PCI, Hitrust and FedRamp certifications were provided to the relevant business lines (as required).

## ***Export Restrictions***

We are subject to applicable export control regulations in countries from which we export goods and services, including the United States, Israel and the United Kingdom. Such regulations may apply with respect to product components that are developed or manufactured in, or shipped from, the United States, Israel and the United Kingdom (including as a result of Brexit), or with respect to certain content contained in our products. There are restrictions that apply to software products that contain encryption functionality. In the event that our products and services are subject to such controls and restrictions, we may be required to obtain an export license or authorization and comply with other applicable requirements pursuant to such regulations.

## ***European Environmental Regulations***

Our European activities require us to comply with the Directive 2011/65/EU of the European Parliament and of the Council on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment and the Commission Delegated Directive (EU) 2015/863 (together “RoHS”). RoHS provides, among other things, that producers of electrical and electronic equipment may not place new equipment containing certain materials, in amounts exceeding certain maximum concentration values, on the market in the EU. We are also required to comply with Regulation (EC) 1907/2006 of the European Parliament and of the Council Registration, Evaluation, Authorisation and Restriction of Chemicals (“REACH”, SVHC-205), which requires producers to manage the risks from chemicals used in their products and to provide safety information on the substances found in their products.

Our products meet the requirements of the RoHS and REACH directives and we are making every effort in order to maintain compliance, without adversely affecting the quality and functionalities of our products. If we fail to maintain compliance, including by reason of failure of our suppliers to comply, we may be restricted from conducting certain business in the EU, which could adversely affect our results of operations.

Our European activities also require us to comply with Directive 2012/19/EU of the European Parliament on Waste Electrical and Electronic Equipment (“WEEE”). The WEEE directive covers the labeling, recovery and recycling of IT/ Telecommunications equipment, electrical and electronic tools, monitoring and control instruments and other types of equipment, devices and items, and we have set up the operational and financial infrastructure required for collection and recycling of WEEE, as stipulated in the WEEE directive, including product labeling, registration and the joining of compliance schemes. We are taking and will continue to take all requisite steps to ensure compliance with this directive. If we fail to maintain compliance, we may be restricted from conducting certain business in the EU, which could adversely affect our results of operations.

Similar regulations have been, or are being, formulated in other parts of the world. We may be required to comply with other similar programs that are enacted outside Europe in the future.

## **Competition**

We believe that our solutions have several competitive advantages (as set forth above in “Our Solutions” section in this Item 4, “Information on the Company – Business Overview”) as well as their scale, performance and accuracy, comprehensiveness of solutions and broad functionality.

We are leaders in the Customer Engagement space. We compete against WFO players such as Aspect, Calabrio, Genesys and Verint. In the CCaaS market, which is a part of the Contact Center Infrastructure market that is still mainly held by traditional on-premises players, we compete against Avaya, Cisco, Five9, Genesys and TalkDesk, as well as other niche vendors. We also compete against certain Unified Cloud Communications vendors (UCaaS), such as 8x8 and Vonage, which offer basic CCaaS capabilities, and certain digital engagement vendors, such as LivePerson, which offer digital engagement and self-service capabilities for contact centers. In addition, we are seeing some CRM companies that provide a subset functionality of our broader offerings.

We are leaders in the Financial Crime and Compliance space. We compete against niche vendors that provide one subset of functionality to protect against a specific risk and against vendors that provide a more comprehensive offering. Such vendors include BAE Systems, FICO, NASDAQ Smarts, Oracle and SAS Institute.



**Item 4.C      Organizational Structure**

The following is a list of our significant subsidiaries and other subsidiaries, including the name and country of incorporation or residence. Each of our subsidiaries listed below is wholly-owned by us.

<b>Name of Subsidiary</b>	<b>Country of Incorporation or Residence</b>
Nice Systems Australia PTY Ltd.	Australia
NICE Systems Technologies Brasil LTDA	Brazil
NICE Systems Canada Ltd.	Canada
Nice Systems China Ltd.	China
Nice France S.A.R.L.	France
NICE Systems GmbH	Germany
NICE APAC Ltd.	Hong Kong
NICE Systems Kft	Hungary
Nice Interactive Solutions India Private Ltd.	India
Nice Technologies Ltd.	Ireland
Actimize Ltd.	Israel
Nice Japan Ltd.	Japan
NICE Technologies Mexico S.R.L.	Mexico
NICE Netherlands B.V.	Netherlands
Nice Systems (Singapore) Pte. Ltd.	Singapore
Nice Switzerland AG	Switzerland
Actimize UK Limited	United Kingdom
NICE Systems Technologies UK Limited	United Kingdom
NICE Systems UK Ltd.	United Kingdom
Brand Embassy Ltd.	United Kingdom
Actimize Inc.	United States
Alacra LLC	United States
Guardian Analytics Inc.	United States
NICE Systems Inc.	United States
Nice Systems Latin America, Inc.	United States
Nice Systems Technologies Inc.	United States
Mattersight Corporation	United States
Nexidia Inc.	United States
inContact Inc.	United States
inContact Bolivia S.R.L.	Bolivia
Nice inContact Philippines Inc.	Philippines

#### **Item 4.D      Property, Plants and Equipment**

Our executive offices and engineering, research and development operations are located in North Ra'anana, Israel. The offices occupy approximately 250,627 square feet, with an annual rent and maintenance fee of approximately \$9.8 million in 2020 and thereafter, paid in NIS and linked to the Israeli consumer price index. The lease for these offices in our Northern Ra'anana facilities will expire in October 2022.

We have leased various other offices and facilities in several other countries. Our headquarters in each region consist of the following facilities:

- Our North American headquarters in Hoboken, New Jersey, occupies approximately 60,000 square feet. We consolidated our North American locations into this one office location in November 2016, and we sub-leased our two former facilities in New Jersey and New York for the remainder of their respective lease terms through 2023 and 2021, respectively;
- Our EMEA headquarters in London, occupies approximately 22,500 square feet (of which 5,543 square feet are sub-leased for a term ending in 2023); and
- Our APAC headquarters in Singapore occupies approximately 8,000 square feet.

We also have additional material leased facilities, consisting of the following:

- Americas facilities located in –
  - Salt Lake City, Utah – an office that occupies approximately 128,000 square feet;
  - Atlanta, Georgia – two offices that occupy together approximately 43,000 square feet; and
  - Additional offices are located in Colorado, Texas, Ohio and California.
- APAC facilities include an office space located in Pune, India, which occupies approximately 135,000 square feet and includes a research and development and service center. There are also additional APAC offices located in Manila, Hong Kong and Tokyo.

We believe that our existing facilities are adequate to meet our current needs and substantially adequate to meet our foreseeable future needs.

**Item 4A. Unresolved Staff Comments.**

None.

**Item 5. Operating and Financial Review and Prospects.**

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and the related notes and other financial information included elsewhere in this annual report. This discussion contains certain forward-looking statements that involve risks, uncertainties and assumptions. As a result of many factors, including those set forth under Item 3, “Key Information - Risk Factors” and elsewhere in this annual report, our actual results may differ materially from those anticipated in these forward-looking statements. For more information about forward-looking statements, see the “Preliminary Note” that precedes the Table of Contents of this annual report.

**Overview**

NICE is a global enterprise software leader, providing cloud platforms for AI-driven business solutions that serve two main markets: Customer Engagement and Financial Crime and Compliance. Our core mission is to transform experiences to be extraordinary and trusted. Our solutions are used by customer service organizations of enterprises of all sizes and verticals, and by compliance and fraud-prevention groups in leading financial institutions, offered in multiple delivery models, including cloud and on-premises.

We help organizations transform customer experiences by understanding consumer journeys, creating smarter hyper-personalized connections, managing seamless omnichannel interactions and providing digital-centric self-service capabilities. We also help organizations transform their workforce experience by engaging employees, optimizing operations and automating processes. In the Financial Crime and Compliance markets, we protect financial services organizations and their customers’ accounts and transactions with solutions that identify risks faster and earlier to prevent money laundering and fraud, as well as ensure compliance in real-time.

NICE is at the forefront of several industry technological disruptions that have greatly accelerated over the course of the recent pandemic: the growing maturity of analytics and AI, the adoption of cloud platforms by enterprises, the expansion of use of digital channels to communicate with customers, and the shift by financial institutions to integrated risk management solutions for end-to-end financial crime prevention. Our solutions form a comprehensive and unified portfolio based on our unique domain expertise for driving customer experience transformation and preventing financial crime as well as enhancing public safety. These solutions are built on innovative cloud platforms that are digital-first, integrating advanced analytics, AI and automation in a wide range of business applications.

We rely on several key assets to drive our growth:

- Our market-leading open cloud platforms for Customer Engagement and Financial Crime and Compliance, which natively embed analytics, automation, AI, and digital capabilities, and are protected by a broad array of patents.
- Our extensive portfolio of applications allows NICE’s customers to benefit from a wide range of both cloud and on-premises solutions.
- Our broad array of proprietary technologies and algorithms in the domains of automation, analytics, machine learning, speech-to-text, natural language processing, personality-based routing and others.
- Our access to data for improving our algorithms through machine learning and AI, which relies on a combination of our expansive customer base, cloud deployments and domain expertise.
- Our solutions cover all market segments, from small to mid-sized business to large scale Fortune 100 enterprises.
- Our solutions are mission critical for the operation of our customers, and our cloud platforms are essential for enabling a scalable and sustainable work-from-anywhere environment.

- Our market leadership, which makes us a well-recognized brand and creates top-of-mind awareness for our solutions in our areas of operation.
- Our large partner ecosystem enables us to reach and serve a large number of customers across many countries.
- Our loyal customer base: more than 25,000 organizations in over 150 countries, across many industries, and including 85 of the Fortune 100 companies, use NICE solutions.
- Our ability to quickly drive mainstream adoption for innovative solutions and new technologies and trends, which we introduce to the market through our direct sales force and distribution network.
- Our skilled employees and domain expertise in our core markets allows us to bring our customers the right solutions to address key business challenges and build strong customer partnerships.
- Our services, customer support and operations, which enable our customers to quickly enjoy the benefits of our solutions, with multiple deployment models in the cloud or on-premises throughout the world and support for full value realization and customer success.

### **COVID-19 Update**

Due to the COVID-19 pandemic, we have restricted our employee travel, shifted to work from home in locations around the world and have changed other operating procedures. We continue to actively monitor the situation and have taken and will continue to take certain precautionary and preemptive actions to minimize impact to our business and our employees. In addition, we have and will continue to monitor and take actions to abide with all federal, state and local regulatory requirements. Neither the duration nor the spread of the COVID-19 virus can be predicted. In this respect, see also the discussion under Item 3.D. “Risk Factors – Risks Relating to the Global Environment – Our business, facilities or operations could be adversely affected by events outside of our control, such as natural disasters or health epidemics.” We will continue to drive uninterrupted business continuity in our operations while we closely track developments and may take further actions based on regulatory mandates, or that we determine are in the best interests of our employees, customers, partners, suppliers, and shareholders.

### **Recent Acquisitions**

The following acquisitions were accounted for by the acquisition method of accounting, and, accordingly, the purchase price was allocated to the assets acquired and liabilities assumed based on their respective fair values, or as an asset acquisition when substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets. The results of operations related to each acquisition are included in our consolidated statements of income from the date of acquisition.

On August 20, 2018, we completed the acquisition of Mattersight Corporation (“Mattersight”), a leading provider of cloud-based analytics for customer service organizations. We acquired Mattersight for total consideration of approximately \$105.1 million. This acquisition brings together the market’s leading behavioral analytics and NICE’s advanced cloud innovation capabilities, empowering organizations to improve customer experience through deep understanding of the customer persona. The acquisition enables organizations to benefit from an enhanced analytics solutions portfolio in the cloud, while driving personalization and efficiently creating real-time connections between customers and service.

In addition, from time to time we complete acquisitions and investments that are not considered material to our business and operations. During 2020, we completed three additional acquisitions for a total consideration of approximately \$164.6 million, and during 2019 we completed two acquisitions for a total consideration of approximately \$26.7 million in cash. For additional information see Note 1b to our Consolidated Financial Statements included elsewhere in this annual report.

### **Off-Balance Sheet Transactions**

We have not engaged in nor been a party to any off-balance sheet transactions, as defined in Item 5 of Form 20-F.

## Critical Accounting Policies

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Management believes that the estimates, judgments and assumptions used are reasonable based upon information available at the time they are made.

Management believes that the significant accounting policies, which affect its more significant judgments and estimates used in the preparation of the consolidated financial statements, and those that are the most critical to aid in fully understanding and evaluating our reported results, include the following:

- Revenue recognition;
- Costs to obtain contracts;
- Impairment of long-lived assets;
- Income taxes;
- Legal contingencies
- Business combination;
- Stock-based compensation;
- Marketable securities;
- Fair value of financial instruments; and
- Exchangeable senior notes.

**Revenue Recognition.** We generate revenues from sales of cloud, service and software products, which include software license, SaaS, network connectivity, hosting, support and maintenance, implementation, configuration, project management, consulting and training, and software licenses. We sell our cloud, products and services directly through our sales force and indirectly through a global network of distributors, system integrators and strategic partners, all of whom are considered end-users.

We recognize revenues in accordance with ASC No. 606, “Revenue from Contracts with Customers” (“ASC 606”). Under this standard, we recognize revenues when a customer obtains control of promised goods or services in an amount that reflects the consideration that we expect to receive in exchange for those goods or services. To determine revenue recognition for contracts that are within the scope of this standard, we perform the following five steps:

### 1) Identify the contract(s) with a customer

A contract with a customer exists when (i) there is an enforceable contract with the customer that defines each party’s rights regarding the goods or services to be transferred and identifies the payment terms related to these goods or services; (ii) the contract has commercial substance; and (iii) we determine that collection of substantially all consideration for goods or services that are transferred is likely based on the customer’s intent and ability to pay the promised consideration. We apply judgment in determining the customer’s ability and intent to pay, which is based on a variety of factors, including the customer’s historical payment experience.

### 2) Identify the performance obligations of the contract

We enter into contracts that may include multiple performance obligations. We account for individual products and services separately if they are distinct – i.e., if a product or service is separately identifiable from other items in the contract and if a customer can benefit from it on its own or with other resources that are readily available to the customer.

### 3) Determine the transaction price

The transaction price is determined based on the consideration to which we will be entitled in exchange for transferring goods or services to the customer.

Payment terms and conditions vary by contract type. In instances where the timing of revenue recognition differs from the timing of invoicing, we generally do not include a significant financing component in our contracts since our sale prices are not subject to billing terms and the purpose of our contracts is not to receive financing from, or provide financing to, customers.

Revenue is measured based on the consideration specified in a contract with a customer, excluding taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction, that we collect from a customer. We enter into contracts that can include various combinations of products and services, which are generally capable of being distinct and accounted for as separate performance obligations.

### 4) Allocate the transaction price to the performance obligations of the contract

We allocate the transaction price to each performance obligation identified based on its relative standalone selling price ("SSP") out of the total consideration of the contract.

We use judgment in determining the SSP. If the SSP is not observable through standalone transactions, we estimate the SSP by taking into account available information such as geographic or regional specific factors, internal costs, profit objectives, and internally approved pricing guidelines related to the performance obligations.

We typically establish a SSP range for our products and services, which is reassessed on a periodic basis or when facts and circumstances change. SSP for products and services can evolve over time due to changes in Nice pricing practices that are influenced by intense competition, changes in demand for products and services, and economic factors, among others.

For products for which the SSP cannot be determined based on observable prices given that the same products are sold for a broad range of amounts (i.e., the selling price is highly variable), the SSP included in a contract with multiple performance obligations is determined by applying a residual approach whereby all other performance obligations within a contract are first allocated a portion of the transaction price based upon their respective SSP's, with any residual amount of transaction price allocated to these product revenues.

### 5) Recognize revenue when (or as) the entity satisfies a performance obligation

We derive our cloud revenues from subscription services, which are comprised of subscription fees from granting customers access to the our cloud platforms, network connectivity and services fees for deployment of certain cloud platforms.

Revenue from subscription services is recognized either ratably over the contract period or based on usage, and revenue from network connectivity is based on customer call usage and is recognized in the period the call is initiated and services fees for deployment are amortized over average customer life.

Revenue is recognized at the time the related performance obligation is satisfied by transferring the promised product or service to the customer.

Software license revenues are recognized at the point in time when the software license is delivered and the customer obtains control of the asset.

Support and maintenance service revenues are recognized ratably over the term of the underlying maintenance contract term. Renewals of maintenance contracts create new performance obligations that are satisfied over the term with the revenues recognized ratably over the period of the renewal.

Professional services revenues, except fees for deployment of certain cloud platforms, are recognized as services are performed. We derive our cloud revenues from subscription services, which are comprised of subscription fees from granting customers access to our cloud computing services and from network connectivity.

**Costs to Obtain Contracts.** We capitalize sales commission as costs of obtaining a contract when they are incremental and if they are expected to be recovered. We apply judgment in estimating the amortization period, by taking into consideration customer contract terms, history of renewals, expected length of customer relationship, as well as the useful life of the underlying technology and products. Amortization of sales commission expense is included in selling and marketing expenses in the accompanying consolidated statements of income. For costs that we would have capitalized and amortized over a period of one year or less, we elected to apply the practical expedient and expense these contract costs as incurred.

**Impairment of Long-Lived Assets.** Our long-lived assets include goodwill, property and equipment and identifiable other intangible assets that are subject to amortization.

Goodwill represents the excess of the purchase price in a business combination over the fair value of the net tangible and intangible assets acquired. Under ASC 350, “Intangible - Goodwill and Other” (“ASC 350”), goodwill is not amortized, but rather is subject to an annual impairment test. ASC 350 requires goodwill to be tested for impairment at the reporting unit level at least annually or between annual tests in certain circumstances and written down when impaired. Goodwill is tested for impairment by comparing the fair value of the reporting unit with its carrying value.

In 2020 we adopted ASU 2017-04. Therefore, if we determines that it is more likely than not that the fair value of a reporting unit is less than its carrying value, then the we prepares a quantitative analysis to determine whether the carrying value of reporting unit exceeds its estimated fair value. If the carrying value of a reporting unit exceeds its estimated fair value, we recognizes an impairment of goodwill for the amount of this excess, in accordance with the guidance in FASB Accounting Standards Update (“ASU”) No. 2017-04, Intangibles - Goodwill and Other (Topic 350), Simplifying the Test for Goodwill Impairment, which the company adopted as of January 1, 2020.

During the fourth quarter of each of the fiscal years ended December 31, 2018, 2019 and 2020, we performed a qualitative assessment for our reporting units and concluded that the qualitative assessment did not result in a more likely than not indication of impairment, and therefore no further impairment testing was required. Accordingly, no impairment charge was recognized during any of such fiscal years.

**Income Taxes.** To prepare our consolidated financial statements, we estimate our income taxes in each of the jurisdictions in which we operate, and in certain of these jurisdictions, our income taxes are calculated based on our assumptions as to our entitlement to various benefits under the applicable tax laws in the jurisdiction. The entitlement to such benefits depends upon our compliance with the terms and conditions set out in these laws.

We account for income taxes in accordance with ASC 740, “Income Taxes.” This topic prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between financial reporting and tax bases of assets and liabilities, and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. We provide a valuation allowance, if necessary, to reduce deferred tax assets to the amount that is more likely than not to be realized. Deferred tax assets and deferred tax liabilities are presented under long-term assets and long-term liabilities, respectively.

We implement a two-step approach to recognize and measure uncertain tax positions. The first step is to evaluate the tax position taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that, on an evaluation of the technical merits, the tax position will be sustained on audit, including resolution of any related appeals or litigation processes. The second step is to measure the tax benefit as the largest amount that is more than 50% (cumulative basis) likely to be realized upon ultimate settlement.

We classify interest and penalties on income taxes (which includes uncertain tax positions) as taxes on income.

**Legal Contingencies.** We are currently involved in various claims and legal proceedings. We review the status of each matter and assess its potential financial exposure. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, we accrue a liability for the estimated loss.

**Business Combination.** We apply the provisions of ASC 805, “Business Combination,” and we allocate the fair value of purchase consideration to the tangible assets acquired, liabilities assumed and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable

assets and liabilities is recorded as goodwill. When determining the fair values of assets acquired and liabilities assumed, management makes significant estimates and assumptions, especially with respect to intangible assets. Significant estimates in valuing certain intangible assets include, but are not limited to, future expected cash flows from customer relationships, acquired technology and acquired trademarks from a market participant perspective, useful lives and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates. Acquisition-related expenses are recognized separately from the business combination and are expensed as incurred.

We account for a transaction as an asset acquisition pursuant to the provisions of ASU 2017-01, "Clarifying the Definition of a Business," when substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, or otherwise does not meet the definition of a business. Asset acquisition-related costs are capitalized as part of the asset or assets acquired.

**Stock-based Compensation.** We account for stock-based compensation in accordance with ASC 718, "Compensation - Stock Compensation" ("ASC 718"), which requires the measurement and recognition of stock base compensation expense based on estimated fair values for all share-based payment awards made to employees and directors. ASC 718 requires companies to estimate the fair value of equity-based payment awards on the date of grant using an option-pricing model and account for forfeitures as they occur.

We recognize compensation expenses for the value of our awards, which have graded vesting, based on the accelerated attribution method over the requisite service period of each of the awards.

We estimate the fair value of stock options granted using the Black-Scholes-Merton option-pricing model, which requires a number of assumptions: the expected volatility is based upon actual historical stock price movements; the expected term of options granted is based upon historical experience and represents the period of time that options granted are expected to be outstanding; the risk-free interest rate is based on the yield from U.S. Federal Reserve zero-coupon bonds with an equivalent term; and the expected dividend rate (an annualized dividend yield) is based on the per share dividend declared by our Board of Directors.

We measure the fair value of restricted stock based on the market value of the underlying shares at the date of grant. The fair value of certain performance share units with market-based performance conditions granted under the employee equity plan was estimated on the grant date using the Monte Carlo valuation methodology.

**Marketable Securities.** We account for investments in debt securities in accordance with ASC 320, "Investments - Debt and Equity Securities" and ASC No. 326, "Financial Instruments - Credit Losses". Management determines the appropriate classification of our investments in debt securities at the time of purchase and re-evaluates such determinations at each balance sheet date.

Marketable securities classified as "available-for-sale" ("AFS") are carried at fair value, based on quoted market prices. Unrealized gains and losses are reported in a separate component of shareholders' equity in accumulated other comprehensive income, net of taxes. Gains and losses are recognized when realized, on a specific identification basis, in our consolidated statements of income.

For each reporting period, we evaluate whether declines in fair value below carrying value are due to expected credit losses, as well as our ability and intent to hold the investment until a forecasted recovery occurs, in accordance with ASC 326. Allowance for credit losses on AFS debt securities are recognized as a charge in financial expenses (income), net, on the consolidated statements of income, and any remaining unrealized losses, net of taxes, are included in accumulated other comprehensive income (loss). In 2019 and 2018, no other than temporary impairment were recorded and in 2020 no credit losses were recorded.

In 2020, we classified all our securities with maturities beyond 12 months as current assets under the caption marketable securities on the consolidated balance sheet. These securities are available to support current operations and we may sell these debt securities prior to their stated maturities.



**Fair Value of Financial Instruments.** We apply ASC 820, “Fair Value Measurements and Disclosures” (“ASC 820”). Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the “exit price”) in an orderly transaction between market participants at the measurement date. We measure our investments in money market funds classified as cash equivalents, marketable securities and our foreign currency derivative contracts at fair value.

In determining fair value, we use various valuation approaches. ASC 820 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of us. Unobservable inputs are inputs that reflect our assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The hierarchy is broken down into three levels based on the inputs as follows:

- Level 1 - Valuations based on quoted prices in active markets for identical assets that we have the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.
- Level 2 - Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.
- Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of observable inputs can vary from investment to investment and is affected by a wide variety of factors, including, for example, the type of investment, the liquidity of markets and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment and the investments are categorized as Level 3.

Our marketable securities, exchangeable senior notes and foreign currency derivative contracts are classified within Level 2. For more information, see Note 3, Note 10 and Note 15 to our consolidated financial statements included elsewhere in this annual report.

The carrying amounts of cash and cash equivalents, short-term bank deposits, trade receivables and trade payables, approximate their fair value due to the immediate or short-term maturities of these financial instruments.

**Exchangeable Senior Notes.** We apply ASC 815 “Derivative and Hedging” (“ASC 815”) and ASC 470 “Debt” (“ASC 470”). Under these standards, we separately account for the liability and equity components of convertible debt instruments that may be settled in cash in a manner that reflects our nonconvertible debt borrowing rate. The liability component at issuance is recognized at fair value, based on the fair value of a similar instrument that does not have a conversion feature. The equity component is based on the excess of the principal amount of the debentures over the fair value of the liability component, after adjusting for an allocation of debt issuance costs, and is recorded as additional paid in capital in excess of par. Debt discounts are amortized as additional non-cash interest expense over the expected life of the debt. We allocated the total issuance costs incurred to the liability and equity components of the convertible senior notes based on the same proportions as the proceeds from the notes.

### **Recently Adopted Accounting Standards**

On January 1, 2020, we adopted Accounting Standards Update No. 2016-13, Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, using the modified retrospective transition method. Upon adoption, we changed our impairment model to utilize a forward-looking current expected credit losses (CECL) model in place of the incurred loss methodology for financial instruments measured at amortized cost, including our accounts receivable. In addition, we modified our impairment model to the CECL model for available for sale (“AFS”) debt securities and discontinued using the concept of “other than temporary” impairment on AFS debt securities. CECL estimates on accounts receivable are recorded as general and administrative expenses on our consolidated statements of income. CECL estimates on AFS debt securities are recognized in interest and other income (expense), net on our consolidated statements of

income. The cumulative effect adjustment from adoption was immaterial to our consolidated financial statements. We continue to monitor the financial implications of the COVID-19 pandemic on expected credit losses.

In January 2017, the FASB issued ASU 2017-04 “Intangibles - Goodwill and Other (ASC 350): Simplifying the Accounting for Goodwill Impairment “ADR” (“ASU 2017-04”). ASU 2017-04 eliminates step 2 of the goodwill impairment test, which requires the calculation of the implied fair value of goodwill by assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. Instead, an entity will compare the fair value of a reporting unit with its carrying amount and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value. ASU 2017-04 is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. We adopted ASU 2017-04 effective January 1, 2020 with no material impact on our consolidated financial statements.

In August 2018, the FASB issued ASU 2018-15, “Intangibles – Goodwill and Other – Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract.” The new standard requires capitalization of the implementation costs incurred in a cloud computing arrangement that is a service contract, with the requirements for capitalization costs incurred to develop or obtain internal-use software. The new standard also requires presenting the capitalized implementation costs and their related amortization and cash flows on the financial statements in consistent with the prepaid amounts and fees related to the associated cloud computing arrangement. Capitalized implementation costs will be required to be amortized over the term of the arrangement, beginning when the module or component of the cloud computing arrangement that is a service contract is ready for its intended use. We adopted ASU 2018-15 effective January 1, 2020 on a prospective basis without a material impact to the Consolidated Financial Statements.

#### **Recently Issued Accounting Standards Not Yet Adopted**

In August 2020, the FASB issued ASU 2020-06, which simplifies the guidance on the issuer’s accounting for convertible debt instruments by removing the separation models for (1) convertible debt with a cash conversion feature and (2) convertible instruments with a beneficial conversion feature. As a result, entities will not separately present in equity an embedded conversion feature in such debt. Instead, they will account for a convertible debt instrument wholly as debt, unless certain other conditions are met. The elimination of these models will reduce reported interest expense and increase reported net income for entities that have issued a convertible instrument that was within the scope of those models before the adoption of ASU 2020-06. ASU 2020-06 also requires that the effect of potential share settlement be included in the diluted EPS calculation when an instrument may be settled in cash or share. This amendment removes current guidance that allows an entity to rebut this presumption if it has a history or policy of cash settlement. Furthermore, ASU 2020-06 requires the application of the if-converted method for calculating diluted earnings per share, the treasury stock method will be no longer available. The provisions of ASU 2020-06 are applicable for fiscal years beginning after December 15, 2021, with early adoption permitted no earlier than fiscal years beginning after December 15, 2020. We are currently evaluating the impact of ASU 2020-06 on our consolidated financial statements.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes. This standard simplifies the accounting for income taxes by eliminating certain exceptions to the guidance in Topic 740 related to the approach for intra-period tax allocation, the methodology for calculating income taxes in an interim period and the recognition of deferred tax liabilities for outside basis differences. The new guidance also simplifies aspects of the accounting for franchise taxes and enacted changes in tax laws or rates and clarifies the accounting for transactions that result in a step-up in the tax basis of goodwill and allocating consolidated income taxes to separate financial statements of entities not subject to income tax. ASU 2019-12 is effective for annual and interim periods in fiscal years beginning after December 15, 2020. Early adoption is permitted. The adoption of ASU 2019-12 is not expected to have a significant impact on our consolidated financial statements.

## Results of Operations

The following table sets forth our selected consolidated statements of income for the years ended December 31, 2019 and 2020, expressed as a percentage of total revenues (totals may not add up due to rounding).

	<b>2019</b>	<b>2020</b>
Revenue		
Cloud	37.9 %	47.2 %
Services	45.1	41.7
Product	17.0	11.1
	<u>100.0</u>	<u>100.0</u>
Cost of revenue		
Cloud	18.4	20.6
Services	13.9	12.1
Product	1.5	1.3
	<u>33.8</u>	<u>34.0</u>
Gross profit	66.2	66.0
Operating expenses		
Research and development, net	12.3	13.2
Selling and marketing	28.1	27.0
General and administrative	10.6	11.0
Total operating expenses	<u>51.0</u>	<u>51.2</u>
Operating income	15.2	14.8
Financial expenses and other, net	<u>0.3</u>	<u>0.3</u>
Income before taxes	14.9	14.4
Taxes on income	<u>3.1</u>	<u>2.5</u>
Net income	<u><u>11.8</u></u>	<u><u>11.9</u></u>

### *Comparison of Years Ended December 31, 2019 and 2020*

*For a comparison of our results for the years ended December 31, 2018 and 2019, please refer to Item 5 in our annual report on Form 20-F for the year ended December 31, 2019, filed with the SEC on April 6, 2020*

Our revenues increased by approximately \$74.1 million, or 5%, from \$1,573.9 million in the year ended December 31, 2019 to \$1,648 million in the year ended December 31, 2020. The increase consisted of a \$82.4 million increase in Customer Engagement revenue which was partly offset by an \$8.3 million decrease in Financial Crime and Compliance revenue.

The revenue growth of our Customer Engagement business segment in 2020 is mainly attributed to the increased demand for our cloud platform CXone including the ongoing expansion of our customer base and further penetration into both large organizations and the mid-market as well as expanded usage by our existing customer base.

The revenue decrease in our Financial Crime and Compliance business segment in 2020 is primarily attributed to the increased adoption of our cloud platforms X-Sight and Xceed by our customers which results in revenue recognition over longer periods compared to revenue recognition of on-premise solutions recognized immediately, as well as decreases in product and professional service revenues primarily resulting from COVID.

	Years Ended December 31,		Percentage
	(In millions)		Change
	2019	2020	2019-2020
Cloud revenue	595.7	777.3	30.5 %
Service revenue	709.1	687.5	(3.0)
Product revenue	269.1	183.2	(31.9)
Total revenue	\$ 1,573.9	\$ 1,648.0	4.7 %

Our cloud revenue in 2020 increased by 30.5%, or \$181.6 million, to \$777.3 million compared to \$595.7 million in 2019, mainly due to growing demand for our cloud platforms, including new customers buying cloud-based solutions as part of our expansion in the mid-market.

Our service revenue in 2020 decreased by 3.0%, or \$21.6 million, to \$687.5 million compared to \$709.1 million in 2019, mainly due to a decrease in professional services revenue from on-premise implementations resulting primarily from increased cloud adoption of our solutions.

Our product revenue in 2020 decreased by 31.9%, or \$85.9, to \$183.2 million compared to \$269.1 million in 2019, primarily due to increased adoption of our cloud solutions and the slowdown of on-premise purchases during COVID.

#### Revenue by Region

	Years Ended December 31,		Percentage
	(In millions)		Change
	2019	2020	2019-2020
United States, Canada and Central and South America (“Americas”)	\$ 1,234.5	\$ 1,353.3	9.6 %
Europe, the Middle East and Africa (“EMEA”)	216.2	184.5	(14.6)
Asia-Pacific (“APAC”)	123.2	110.2	(10.6)
Total revenues	\$ 1,573.9	\$ 1,648.0	4.7 %

Revenue in Americas increased in 2020 by 9.6%, or \$118.8 million, to \$1,353.3 million compared to \$1,234.5 million in 2019, mainly due to increased demand for our solutions delivered via our cloud platforms, primarily CXOne.

Revenue in EMEA decreased in 2020 by 14.6%, or \$31.7 million, to \$184.5 million compared to \$216.2 million in 2019, primarily attributed to the increased adoption of our cloud platforms by our customers which results in revenue recognition over longer periods, compared to revenue recognition of on-premise solutions recognized immediately, as well as decreases in product and service revenues.

Revenue in APAC decreased in 2020 by 10.6%, or \$13.0 million, to \$110.2 million compared to \$123.2 million in 2019. Decrease in revenue in 2020 is primarily attributed to the increased adoption of our cloud platforms by our customers which results in revenue recognition over longer periods, compared to revenue recognition of on-premise solutions recognized immediately, as well as decreases in product and service revenues.

## Cost of Revenue

	Years Ended December 31, (In millions)		Percentage Change
	2019	2020	2019-2020
Cost of cloud revenue	\$ 289.9	\$ 340.0	17.3 %
Cost of service revenue	219.0	199.8	(8.8)
Cost of product revenue	22.9	22.2	(3.3)
Total cost of revenue	\$ 531.8	\$ 562.0	5.7 %

Our cost of cloud revenue in 2020 increased by \$50.1 million, or 17.3% compared to 2019, and decreased as a percentage of cloud revenue. The increase is primarily due to an increase in our cloud sales. The decrease as percentage of revenue is primarily due to increased scale in our cloud business.

Our cost of service revenue in 2020 decreased by \$19.2 million, or 8.8%, compared to 2019 and decreased as a percentage of service revenue. The decrease as a percentage of service revenue in 2020 is primarily attributed to increased efficiency in our services organization.

Our cost of product revenue in 2020 decreased by \$0.7 million, or 3.3%, compared to 2019 and increased as a percentage of product revenue compared to 2019, mainly due to a different mix of product solutions sold during 2020.

## Gross Profit

	Years Ended December 31, (In millions)		Percentage Change
	2019	2020	2019-2020
Gross profit on cloud revenue	\$ 305.9	\$ 437.3	43.0 %
as a percentage of cloud revenue	51.3 %	56.3 %	
Gross profit on service revenue	490.1	487.7	(0.5)
as a percentage of service revenue	69.0	70.9	
Gross profit on product revenue	246.2	161.0	(34.6)
as a percentage of product revenue	0.9	0.9	
Total gross profit	\$ 1,042.2	\$ 1,086.1	4.2 %
as a percentage of total revenue	66.2 %	65.9 %	

Our gross profit on cloud revenue was \$437.3 in 2020 compared to \$305.9 in 2019, representing an increase of \$131.4 million, or 43.0%. Our gross profit of cloud revenue as percentage of cloud revenue increased to 56.3% in 2020 compared to 51.3% in 2019. Increase in cloud gross profit and margin is mainly attributed to scaling in our cloud business and efficiencies in our internal operations.

Our gross profit on service revenue was \$487.7 in 2020 compared to \$490.1 in 2019, representing a decrease of \$2.4 million, or 0.5%, which is mainly attributed to decrease in professional services revenue from fewer on-premise implementations resulting primarily from our transition to increased cloud delivery of our solutions. As a percentage of service revenue, our gross profit of service revenue increased to 70.9% in 2020 compared to 69.0% in 2019, mainly due to increased efficiency in our services organization, and to a decrease in professional services revenue from fewer on-premise implementations resulting primarily from our transition to increased cloud delivery of our solutions.

Our gross profit on product revenue was \$161.0 in 2020 compared to \$246.2 in 2019, representing a decrease of \$85.2 million, or 34.6%, which is mainly attributed to the decrease demand for our product based solutions as part of the transition to cloud adoption solutions. Our gross profit of product revenue as percentage of product revenue decreased to 87.9% in 2020 compared to 91.5% in 2019, mainly due to a different mix of product solution sold during 2020.

## Operating Expenses

	Years Ended December 31,		Percentage
	(In millions)		Change
	2019	2020	2019-2020
Research and development, net	\$ 193.7	\$ 218.2	12.6 %
Selling and marketing	441.7	445.1	0.8 %
General and administrative	168.0	180.7	7.6 %
Total operating expenses	\$ 803.4	844.0	5.1 %

**Research and Development, Net.** Net research and development expenses increased by \$24.5 million to \$218.2 million in 2020 compared to \$193.7 million in 2019, and represented 13.2% and 12.3% of revenues in 2020 and 2019, respectively. The increase in research and development expenses is attributed mainly to an increase in headcount to further drive innovation in our solutions, to support the transition to cloud platforms.

**Selling and Marketing Expenses.** Selling and marketing expenses increased by \$3.4 million to \$445.1 million in 2020 compared to \$441.7 million in 2019, which represented 27.0% and 28.1% of total revenues in 2020 and in 2019, respectively. The increase in selling and marketing expenses is attributed primarily to increase in marketing costs related to lead generation, driving ongoing expansion in brand recognition and increases in sales commissions, which was partly offset by a decrease in amortization of intangible assets.

**General and Administrative Expenses.** General and administrative expenses in 2020 were \$180.7 million compared to \$168.0 million in 2019, which represented 11.0% of total revenues in 2020, as compared to 10.7% of total revenues in 2019. The increase in general and administrative expenses is attributed primarily to increased headcount which is corresponding to the increased scale of our business and to stock-based compensation costs, driven mainly by a higher fair value of employee equity awards correlating with our increased stock price.

## Financial Expenses and Other, net

	Years Ended December 31,		Percentage
	(In millions)		Change
	2019	2020	2019-2020
Financial expenses and other, net	\$ 4.4	\$ 4.9	11.4 %

**Financial Expense and Other, net.** Financial expenses and other, net, increased by \$0.5 million to \$4.9 million in 2020 compared to \$4.4 million in 2019. The slight increase in financial expenses and other, net is attributable primarily to increasing interest expenses due to amortization of premium-discount on purchased bonds and the prepayment of our outstanding indebtedness under our term loan agreement which resulted in acceleration of amortization of issuance cost.

**Taxes on Income.** Total tax expenses were \$40.8 million in 2020 and \$48.4 million in 2019. Our effective tax rate was 17.2% in 2020 and 20.6% in 2019.

The decrease in 2020 of \$7.6 million in tax expenses and the decrease in our effective tax rate from 20.6% in 2019 to 17.2% in 2020 is mainly due to increased profitability in lower tax jurisdictions as compared to the prior year.

The majority of our income in Israel continues to benefit from reduced tax rates, which was 12% in 2020 and 2019, pursuant to our Preferred Technology Enterprise programs, which is discussed in Note 13 of our consolidated financial statements under the caption "Taxes on Income".

**Net Income.** Net income increased by \$10.4 million to \$196.3 million in 2020 compared to \$185.9 million in 2019. The increase in 2020 resulted primarily from an increase in our revenue and gross profit and a decrease in our tax expenses, partially offset by higher operating expenses.

### **Liquidity and Capital Resources**

In recent years, the cash generated from our operating activities has financed our operations as well as the repurchase of our ordinary shares. Generally, we invest our excess cash in highly liquid investment grade securities. As of December 31, 2020, we had \$1,463.9 million of cash and cash equivalents and short-term investments, as compared to \$981.5 million at December 31, 2019.

Cash provided by operating activities was \$480.3 million and \$374.2 million in 2020 and 2019, respectively. Net cash from operations in 2020 consisted primarily of net income of \$196.3 million, adjusted for non-cash activities such as depreciation and amortization of \$182.0 million, stock-based compensation of \$101.7 million as well as working capital changes derived from an increase in deferred revenues of \$63.2 million, an increase in accrued expenses and other liabilities of \$14.9 million, a decrease in deferred taxes of \$33.2 million and an increase in trade receivables of \$22.2 million. Net cash from operations in 2019 consisted primarily of net income of \$185.9 million, adjusted for non-cash activities such as depreciation and amortization of \$173.2 million, stock-based compensation of \$80.9 million as well as working capital changes derived from an increase in deferred revenues of \$13.8 million, an increase in accrued expenses and other liabilities of \$31.7 million, a decrease in deferred taxes of \$12.2 million and a decrease in trade receivables of \$29.9 million.

Net cash used in investing activities was \$465.1 million and \$344.3 million in 2020 and 2019, respectively. In 2020, net cash used in investing activities consisted primarily of payments for the three additional acquisitions of companies in the amount of \$147.3 million, net investment in marketable securities and short-term bank deposits of \$254.5 million and purchase of property, equipment of \$24.2 million and capitalization of internal use software costs of \$39.1 million. In 2019, net cash used in investing activities consisted primarily of payment for the acquisitions of additional companies in the amount of \$26.0 million, net investment in marketable securities and short-term bank deposits of \$256.3 million and purchase of property, equipment of \$27.3 million and capitalization of internal use software costs of \$34.7 million.

Net cash provided by (used in) financing activities was \$196.8 million and \$(42.7) million in 2020 and 2019, respectively.

In 2020, net cash provided by financing activities was attributed primarily to proceeds from issuance of exchangeable notes in the amount of \$451.4 million and proceeds from the issuance of shares upon the exercise of options of \$8.9 million, which were partly offset by repayment of long term debt in the amount of \$215.0 million and the repurchase of our ordinary shares of \$48.3 million. In 2019, net cash used in financing activities was attributed primarily to the repurchase of our ordinary shares of \$47.3 million which were partly offset by proceeds from issuance of shares upon exercise of options of \$5.4 million.

### **Research and Development and Intellectual Property**

For information on our research and development policies and intellectual property, please see “Research and Development” and “Intellectual Property” under Item 4, “Information on the Company” in this annual report.

### **Trend Information**

For information on trends in our industry, please see Item 4, “Information on the Company—Business Overview—Industry and Technology Trends” in this annual report.

For more information on trends, uncertainties, demands, commitments or events that may have a material effect on revenue, please see Item 3, “Key Information—Risk Factors” in this annual report.

## Contractual Obligations

Set forth below are our contractual obligations and other commercial commitments as of December 31, 2020 (in thousands).

Contractual Obligations	Payments Due by Period				
	Total	Less than 1 year	1- 3 years	3-5 years	More than 5 years
Long-term debt obligations, including estimated interest *	\$ 760,073	\$ 3,594	\$ 7,187	\$ 749,292	\$ —
Operating Leases	149,869	22,777	34,465	20,617	72,010
Unconditional Purchase Obligations	\$ 114,251	\$ 54,522	\$ 59,035	\$ 694	\$ —
Severance Pay**	\$ 16,229				
Total Contractual Cash Obligations	\$ 1,040,422	\$ 80,893	\$ 100,687	\$ 770,603	\$ 72,010
Uncertain Income Tax Positions ***	\$ 73,256				

\* Debt obligations includes senior exchangeable notes. The principal balances of the senior exchangeable notes are reflected in the payment periods in the table above based on their respective contractual maturities assuming no conversion. However, the 2017 notes are exchangeable as of Jan 1, 2020, and as such the value of these senior exchangeable notes is included within current liabilities on our consolidated balance sheets. See Note 15 to our consolidated financial statements included elsewhere in this Annual Report for further details.

\*\* Severance pay relates to accrued obligations to employees as required under applicable labor laws. These obligations are payable only upon termination, retirement or death of the respective employees.

\*\*\* Uncertain income tax positions under ASC 740 are due upon settlement and we are unable to reasonably estimate the ultimate amount or timing of settlement. See Note 13(i) of our consolidated financial statements for further information regarding our liability under ASC 740.

Other Commercial Commitments	Total Amounts Committed	Amount of Commitment Expiration Per Period			
		Less than 1 year	1- 3 years	3- 5 years	More than 5 years
Guarantees	\$ 4,129	\$ 3,554	\$ 575	\$ —	\$ —



**Item 6. Directors, Senior Management and Employees.**

**Item 6A. Directors and Senior Management.**

The following tables set forth, as of March 8, 2021, the name, age and position of each of our directors and executive officers and, in regard to our directors, any of the committees of our board of directors on which they serve and whether any such director is an outside director:

Members of the Board of Directors

Name	Age	Position	Audit Committee Member	Compensation Committee Member	Internal Audit Committee Member	Mergers and Acquisitions Committee Member	Nominations Committee Member	Outside Director*
David Kostman	56	Chairman of the Board of Directors	X			X	X	
Rimon Ben-Shaoul	76	Director	X			X		
Dan Falk	76	Director	X	X	X	X	X	X
Yocheved Dvir	68	Director	X	X	X			X
Yehoshua Ehrlich	71	Director				X		
Leo Apotheker	67	Director		X		X		
Joe Cowan	72	Director		X		X		
Zehava Simon	62	Director	X	X	X			X

\* See Item 6, “Directors, Senior Management and Employees—Board Practices— Outside Directors.”

## Members of Management

Name	Age	Position
Barak Eilam	45	Chief Executive Officer
Beth Gaspich	55	Chief Financial Officer
Eran Liron	53	Executive Vice President, Marketing and Corporate Development
Barry Cooper	50	President, Enterprise Group
Craig Costigan	60	Chief Executive Officer, NICE Actimize
Paul Jarman	51	Chief Executive Officer, NICE inContact
Shiri Neder	45	Executive Vice President, Human Resources
Tali Mirsky	48	Corporate Vice President, General Counsel and Corporate Secretary

**David Kostman** has served as one of our directors since 2001 (with the exception of the period between June 2007 and July 2008), and as our Chairman of the Board since February 2013. Mr. Kostman is currently co-CEO and board member of Outbrain, Inc. and serves on the board of directors of ironSource Ltd. and Tivit S.A.. Mr. Kostman is also a former board member of publicly traded Retalix Ltd. (acquired by NCR). From 2006 until 2008, Mr. Kostman was a Managing Director in the investment banking division of Lehman Brothers, heading the Global Internet Group. From April 2003 until July 2006, Mr. Kostman was Chief Operating Officer and then Chief Executive Officer of Delta Galil USA, a subsidiary of publicly traded Delta Galil Industries Ltd. From 2000 until 2002, Mr. Kostman was President of the International Division and Chief Operating Officer of publicly traded VerticalNet Inc. Prior to that Mr. Kostman worked in the investment banking divisions of Lehman Brothers from 1994 to 2000, focusing on the technology and Internet sectors, and NM Rothschild & Sons from 1992 to 1993, focusing on mergers and acquisitions and privatizations. Mr. Kostman holds a Bachelor's degree in Law from Tel Aviv University and a Master's degree in Business Administration from INSEAD.

**Rimon Ben-Shaoul** has served as one of our directors since September 2001. Between 2001 and 2005, Mr. Ben-Shaoul has served as Co-Chairman, President, and Chief Executive Officer of Koonras Technologies Ltd., a technology investment company controlled by LEADER Ltd., an Israeli holding company. Since 2002 Mr. Ben-Shaoul serves as Chairman of Grand AutoMotive LLP. Mr. Ben-Shaoul also served as a director of MIND C.T.I. Ltd., BVR Systems Ltd. and several private companies. In addition, he served as the President and Chief Executive Officer of Polar Communications Ltd., which manages media and communications investments. Mr. Ben-Shaoul also served as the Chairman of T.A.T Technologies Ltd., a public company listed on NASDAQ and TASE. Between 1997 and 2001, Mr. Ben-Shaoul was the President and Chief Executive Officer of Clal Industries and Investments Ltd., one of the largest holding companies in Israel with substantial holdings in the high-tech industry. During that time, Mr. Ben-Shaoul also served as Chairman of the Board of Directors of Clal Electronics Industries Ltd., Scitex Corporation Ltd., and various other companies within the Clal Group. Mr. Ben-Shaoul also served as a director of ECI Telecom Ltd., Fundtech Ltd., Creo Products, Inc. and Nova Measuring Instruments Ltd. From 1985 to 1997, Mr. Ben-Shaoul was President and Chief Executive Officer of Clal Insurance Company Ltd. and a director of the company and its various subsidiaries. Mr. Ben-Shaoul holds a Bachelor's degree in Economics and Statistics and a Master's degree in Business Administration, both from Tel-Aviv University.

**Dan Falk** has served as one of our outside directors since 2001. From 1999 to 2000, Mr. Falk was President and Chief Operating Officer of Sapiens International Corporation N.V. From 1985 to 1999, Mr. Falk served in various positions in Orbotech Ltd., the last of which were Chief Financial Officer and Executive Vice President. From 1973 to 1985, he served in several executive positions in the Israel Discount Bank. Mr. Falk also serves on the board of directors of Ormat Technologies Inc., and until recently served on the board of directors of each of Attunity Ltd. and Orbotech Ltd. Mr. Falk holds a Bachelor's degree in Economics and Political Science and a Master's degree in Business Administration, both from the Hebrew University, Jerusalem.

**Yocheved Dvir** has served as one of our outside directors since January 2008. Since 2000, Ms. Dvir has served as a strategic advisor in business development affairs to multiple companies and initiatives. Ms. Dvir also serves on the board of directors of Menorah Insurance Company and its subsidiary, Xenia Venture Capital and Endey Med. She recently served on the boards of Alrov Real Estate, Visa Cal, Trendline Business Information & Communications Ltd., Israel Corporation Ltd., ECI Telecom Ltd., Strauss Industries Ltd., Phoenix Holding and Phoenix Insurance Co. Between 1990 and 2000, Ms. Dvir served as a Senior Vice President of the Migdal Group. Ms. Dvir joined the Migdal Group in 1981 and, until late 2000, held a number of senior financial and managerial positions, including Head of the Group's Economics Department (1986-1988), Head of the Group's Corporate Office from 1989 to 1992, Head of the Group's General Insurance Division and Corporate Office from 1993 to 1997, Group CFO from 1997 to 1999, and Head of the Group's Strategic Development Division and Marketing Array and Risk Manager in 2000. Ms. Dvir holds a Bachelor's degree in Economics and Statistics from the University of Haifa and completed studies towards a second degree in Statistics from the Hebrew University of Jerusalem.

**Yehoshua (Shuki) Ehrlich** has served as one of our directors since September 2012. Mr. Ehrlich is an active social investor, serving as Chairman of "Committed to Give", a group formed by Israeli social investors for promoting philanthropy in Israel and several other social organizations. Mr. Ehrlich also serves as a board member of the American Joint Distribution Committee and a board member of AfterDox, an angels' investment group. Between the years 2000 and 2010, Mr. Ehrlich served as Managing Director at Giza Venture Capital, where he focused on the communications, enterprise software and information technology sectors. Additionally, Mr. Ehrlich had a fifteen-year career with Amdocs, a public software company specializing in billing, CRM, order management systems for telecommunications and Internet service providers. In his last role at Amdocs, Mr. Ehrlich served as Senior Vice President of Business Development. Mr. Ehrlich holds a Bachelor of Science in Mathematics and Computer Science from the Tel Aviv University.

**Leo Apotheker** has served as one of our directors since August 2013. Mr. Apotheker is the Co-Chief Executive Officer of Burgundy Technology Acquisition Corp. Mr. Apotheker was the Managing Partner and co-founder of Efficiency Capital SAS, a growth capital advisory firm, from 2012 to 2014. From 2010 to 2011, Mr. Apotheker served as Chief Executive Officer of Hewlett Packard. From 2008 to 2010, he served as Chief Executive Officer of SAP AG. In addition, he is currently chairman of the board of Unit4, a leading Dutch software company, Burgundy Technology Acquisition Corp. and Synchron AB, Vice Chairman and Lead Director of Schneider SE, and a member of the board of MercuryGate, P2 Energy Services and Taulia Inc. Mr. Apotheker holds a Bachelor's degree in Economics and International Relations from the Hebrew University of Jerusalem.

**Joe Cowan** has served as one of our directors since August 2013. From October 2013 until September 2017, Mr. Cowan was the CEO and director of Epicor. Since January 2021 Mr. Cowan has been a director of Drishti Technologies, Inc. and of Auburn University Foundation. Since September 2016 Mr. Cowan has been a director of ChannelAdvisor, Inc. and since January 2019 the Chairman of the Board of SAI Global a private company owned by Baring Private Equity Asia. During 2013, Mr. Cowan also served as President of DataDirect Networks, Inc. From 2010 until 2013, Mr. Cowan served as the Chief Executive Officer and President of Online Resources Corp. During 2009, he served as an Operating Executive and Consultant at Vector Capital. From 2007 to 2009, Mr. Cowan served as the Chief Executive Officer of Interwoven Inc. From 2004 to 2006, Mr. Cowan served as the President and Chief Executive Officer of Manugistics Inc. and Manugistics Group Inc. Prior to that, Mr. Cowan served in various senior executive positions, including as the Chief Operating Officer of Baan Co. NV and Avantis GOB NV. He has been a Director of DataDirect Networks, Inc. between 2011 and February 2013. Mr. Cowan has also served on the boards of various publicly traded companies, including ChannelAdvisor Inc., Interwoven Inc., Online Resources Corporation, Manugistics Group Inc. and Blackboard Inc., as well as several private companies. Mr. Cowan holds an M.S. degree in Electrical Engineering from Arizona State University and holds a B.S. degree in Electrical Engineering from Auburn University.

**Zehava Simon** has served as one of our outside directors since July 2015. Ms. Simon served as a Vice President of BMC Software Inc. from 2000 until 2013, most recently as Vice President of Corporate Development. From 2002 to 2011, Ms. Simon also served as Vice President and General Manager of BMC Software in Israel. Prior to that, Ms. Simon held various positions at Intel Israel, which she joined in 1982, including acting as leader of Finance and Operations and Business Development for Intel in Israel. Ms. Simon is currently a board member of Audiocodes Ltd. and Nova Measurements, both public companies traded on NASDAQ and TASE. Ms. Simon is a former member of the board of directors of Insightec Ltd., M-Systems Ltd. (acquired by SanDisk Corp.), Tower Semiconductor Ltd. and Amiad Water Systems, a public company traded on the London Stock Exchange. Ms. Simon holds a B.A. in Social Sciences from the Hebrew University, Jerusalem, a law degree (LL.B.) from the Interdisciplinary Center in Herzliya and an M.A. in Business and Management from Boston University.

**Barak Eilam** has served as Chief Executive Officer since April 2014. In his previous position with NICE, Mr. Eilam was President of our American division from July 2012 to March 2014. Prior to that, Mr. Eilam was the head of sales and the general manager of the Enterprise Group in the Americas. From 2007 to 2009, Mr. Eilam founded and served as the general manager of the NICE Interaction Analytics Global Business Unit. Mr. Eilam has also served in a variety of executive positions within NICE, managing different aspects of the business in product development, sales and product management. Before joining NICE in 1999, Mr. Eilam was an officer for an elite intelligence unit in the Israeli defense forces. Mr. Eilam holds a Bachelor's degree in Electrical and Electronics Engineering from Tel Aviv University.

**Beth Gaspich** has served as our Chief Financial Officer since October 2016. Ms. Gaspich joined NICE as CFO of the Financial Crime and Compliance division NICE Actimize in September 2011, where she was responsible for finance, legal and business operations. Prior to joining NICE, she was Chief Financial Officer for Archive Systems, Inc., a privately held document management software provider. She also served as Vice President of Finance at RiskMetrics Group, Inc., a cloud-based risk management software company. Ms. Gaspich was one of the founding members of RiskMetrics Group and assisted in taking the company through a successful public offering on the NYSE in January 2008. Prior to that, Ms. Gaspich held several other senior positions throughout her career at large global financial institutions, including JP Morgan and Price Waterhouse. Ms. Gaspich holds a B.A. in Accounting from the University of Missouri.

**Eran Liron** has served as our Executive Vice President, Marketing and Corporate Development since October 2013, and as Executive Vice President, Corporate Development since February 2006. From 2004 to 2006, he served as Director of Corporate Development at Mercury Interactive Corporation, a software company, and prior thereto he held several business development positions at Mercury Interactive. Before joining Mercury, Mr. Liron served in several marketing roles at software startups and at Tower Semiconductor. Mr. Liron holds a Bachelor of Science degree from the Technion – Israel Institute of Technology and a Doctorate in Business from the Stanford Graduate School of Business in California.

**Barry Cooper** has been with NICE since March 2011 and serves as our Enterprise Group President as of January 2019. From May 2016 until December 2018, he served as our Chief Operating Officer (COO). Prior to serving as COO, Mr. Cooper served as Vice President, Business Operations for APAC from March 2011 until June 2013, and as of July 2013 and until assuming the role of COO, he served as Executive Vice President, Professional Services and Cloud. Prior to joining NICE, Mr. Cooper was a Management Consultant at Accenture; the Head of Customer Service, IT and Billing at Time Telekom, Malaysia; and Vice President of Professional Services, APAC for CSG Systems, later Comverse. Mr. Cooper holds a First Class Bachelor of Computer Science and Mathematics with Honors from Salford University in the United Kingdom.

**Craig Costigan** has served as NICE Actimize CEO since November 2018. From 2016 to 2018, he served as President of Capital Markets & Credit at Fidelity National Information Services Inc. (FIS), where he managed a team of approximately 4,000 staff worldwide, overseeing risk, compliance, credit, security finance, securities processing and market data solutions and services for over 2,000 banks, broker dealers, investment firms, hedge funds, insurance companies and clients in the financial market. Prior to that, Mr. Costigan served as President of the Risk, Compliance and Global Securities Business at SunGard. Mr. Costigan holds a BS in Economics from Northeastern University.

**Paul Jarman** has served as NICE inContact CEO since November 2016 and served as inContact CEO from January 2005 until we acquired inContact. From December 2002 until becoming CEO in January 2005, Mr. Jarman served as inContact's President. Prior to December 2002, he served as inContact's Executive Vice President. Mr. Jarman was instrumental in guiding inContact from its roots in telecommunications to its strategic offering of cloud-based contact center solutions and has been a part of every major enhancement the company has made since 1997. Mr. Jarman led inContact's listing on NASDAQ. Prior to joining inContact, he was an executive with HealthRider, Inc. Mr. Jarman holds a Bachelor of Science degree in Accounting from the University of Utah.

**Shiri Neder** has served as our Executive Vice President, Human Resource since February 2018. Prior to joining NICE, Ms. Neder was the Corporate Vice President, Head of Human Resources at Nova Measuring Instruments. Prior to that, Ms. Neder worked at Amdocs as Vice President, Human Resources for the Product and Delivery organizations and served as head of Amdocs' Talent Development organization. In addition, Ms. Neder has held positions at Microsoft where she established the Human Resources function for the Telecom division as well as served as Regional Senior Human Resources Manager for the EMEA region. Ms. Neder holds a B.A. in Social Science and an M.A. in Law from Bar Ilan University.

**Tali Mirsky** has served as our Corporate Vice President, General Counsel and Corporate Secretary since March 2018. From 2010 to early 2018, she served as Global Vice President of Legal Affairs and Corporate Secretary at Frutarom Industries Ltd., where she led the company's M&A transactions in addition to managing the company's legal department and handling all legal matters and corporate and securities related items. Prior to that, Ms. Mirsky served as Vice President, General Counsel and Corporate Secretary of Alvarion, led Business and Legal Affairs at Nicast and Midbar Tech and was an associate with Naschitz Brandes & Co law office. She holds an LL.B. in Law and Business Administration from IDC, Herzliya and is admitted to practice law in Israel.

There are no family relationships between any of the directors or executive officers named above.

**Item 6B. Compensation.**

**(a) Aggregate Executive Compensation**

The aggregate compensation paid to or accrued on behalf of all our directors and executive officers as a group of 16 persons during 2020 consisted of approximately \$7.8 million in salary, fees, bonus, commissions and directors' fees and approximately \$0.2 million in amounts set aside or accrued to provide pension, retirement or similar benefits, but excluding amounts we expended for automobiles made available to our officers, expenses (including business travel, professional and business association dues and expenses) reimbursed to our officers and other fringe benefits commonly reimbursed or paid by companies in Israel or the United States.

Our compensation policy for our executive management team, as approved by our shareholders, following the recommendation of our compensation committee and approval by our Board of Directors (as amended, the "Compensation Policy"), is annually reviewed and approved by our Board of Directors, as is any bonus payment made under the policy.

We have a performance-based bonus plan for our executive management team. The plan is based on our overall performance, the particular unit performance, individual performance and the results of the customer satisfaction survey conducted annually. The measurements can change from year to year, based on a combination of financial parameters, including revenues, booking and operating income. The plan is reviewed and approved by our compensation committee and Board of Directors annually, as is any bonus payment under the plan.

During 2020, our officers and directors received, in the aggregate, (i) options to purchase 65,344 ordinary shares, that include 35,426 options with an exercise price equal to the par value of the ordinary shares (the "par value options"), and (ii) 137,433 restricted share units, under our equity-based compensation plans. The options (other than the par value options) have a weighted average price of \$224.18 and all options will expire six years after the date of grant. The restricted shares units are granted at par value of the ordinary shares.

Pursuant to the requirements of the Israeli Companies Law, 5759-1999 (the "Israeli Companies Law"), remuneration of our directors requires shareholder approval. Compensation and reimbursement for outside directors (as described below) is statutorily determined pursuant to the Israeli Companies Law. Effective as of July 1, 2015, our shareholders approved the payment to each of our non-executive directors, including outside directors, of an annual fee of \$40,000 and a meeting attendance fee of \$1,500 for each Board meeting attended (whether in person or through media), and \$1,000 for each Board committee meeting attended (whether in person or through media) (in each case paid in U.S. dollars or in NIS based on the exchange rate on July 1, 2015), subject to additional value added tax, as applicable.

On July 9, 2015, at our 2015 annual general meeting of shareholders, following the recommendation of our compensation committee and approval by our Board of Directors, our shareholders approved an amended Compensation Policy for directors and officers. In addition, our shareholders approved a special annual cash fee for the Chairman of the Board in the amount of NIS 450,000 (equivalent to approximately \$140,000). The special annual fee is subject to adjustment for changes in the Israeli consumer price index after September 2012. At the Company's special general meeting held on December 21, 2016 and annual general meeting held on September 18, 2019, following the recommendation of our compensation committee and approval by our Board of Directors, our shareholders approved certain amendments to the Compensation Policy, as further discussed below in Item 10, "Additional Information. – Approval of Office Holder Compensation" in this annual report.

## **(b) Individual Compensation of Covered Executives**

The following describes the compensation of our five most highly compensated executive officers in 2020, based on the total of salary costs, bonus cost and equity costs for equity granted and expensed in 2020 (“Covered Executives”).

The compensation specified below is broken down into the following components (all amounts specified below are in terms of cost to the Company, as recorded in our financial statements). U.S. dollar amounts indicated for Salary, Bonus and Equity Costs are in thousands of dollars.

- (1) **Salary Costs.** Salary Costs include gross salary, benefits and perquisites, including those mandated by applicable law which may include, to the extent applicable to each Covered Executive, payments, contributions and/or allocations for pension, severance, vacation, travel and accommodation, car or car allowance, medical insurances and risk insurances (e.g., life, disability, accidents), phone, convalescence pay, relocation, payments for social security, and other benefits consistent with the Company’s guidelines.
- (2) **Bonus Costs.** Bonus Costs represent bonuses granted to the Covered Executive with respect to the year ended December 31, 2020, paid in accordance with the Company’s performance-based bonus plan or as detailed in footnotes below.
- (3) **Equity Costs.** Represents the expense recorded in our financial statements for the year ended December 31, 2020, with respect to equity granted in 2020 and in previous years (if applicable). For assumptions and key variables used in the calculation of such amounts see Note 14b of our audited consolidated financial statements.
  - i. **Barak Eilam – CEO.** Salary Costs - \$1,040; Bonus Costs - \$1,060; Equity Costs - \$4,452 expense recorded in 2020 for equity granted in 2020 and \$6,383 expense recorded in 2020 for equity granted in previous years.
  - ii. **Paul Jarman – CEO, NICE inContact.** Salary Costs - \$541; Bonus Costs - \$597; Equity Costs - \$1,559 expense recorded in 2020 for equity granted in 2020 and \$1,502 expense recorded in 2020 for equity granted in previous years.
  - iii. **Beth Gaspich – CFO.** Salary Costs - \$436; Bonus Costs - \$381; Equity Costs - \$1,376 expense recorded in 2020 for equity granted in 2020 and \$1,039 expense recorded in 2020 for equity granted in previous years.
  - iv. **Barry Cooper – President, Enterprise Group.** Salary Costs - \$443; Bonus Costs - \$356; Equity Costs - \$1,376 expense recorded in 2020 for equity granted in 2020 and \$1,045 expense recorded in 2020 for equity granted in previous years.
  - v. **Craig Costigan – NICE Actimize CEO.** Salary Costs - \$433; Bonus Costs - \$435; Equity Costs - \$1,295 expense recorded in 2020 for equity granted in 2020 and \$1,254 expense recorded in 2020 for equity granted in previous years.

## **Item 6C. Board Practices**

### *Corporate Governance Practices*

We are incorporated in Israel and therefore are subject to various corporate governance practices under the Israeli Companies Law, relating to such matters as outside directors, the internal audit committee, the internal auditor and approvals of interested party transactions. These matters are in addition to the ongoing listing conditions of the NASDAQ and other relevant provisions of U.S. securities laws. Under applicable NASDAQ rules, a foreign private issuer may generally follow its home country rules of corporate governance in lieu of comparable NASDAQ requirements, except for certain matters such as composition and responsibilities of the audit committee and the independence of its members. For further information, see Item 16G, “Corporate Governance” of this annual report.

## *General Board Practices*

Our articles of association provide that the number of directors serving on the Board shall be not less than three but shall not exceed thirteen. Our directors, other than outside directors, are elected at the annual shareholders meeting to serve until the next annual meeting or until their earlier resignation, death, bankruptcy, incapacity or removal by an extraordinary resolution of the general shareholders meeting. Directors may be re-elected at each annual shareholders' meeting. The Board may appoint additional directors (whether to fill a vacancy or create new directorships) to serve until the next annual shareholders meeting, provided, however, that the Board shall have no obligation to fill any vacancy unless the number of directors is less than three.

The Board may, subject to the provisions of the Israeli Companies Law, appoint a committee of the Board and delegate to such committee all or any of the powers of the Board, as it deems appropriate. Notwithstanding the foregoing and subject to the provisions of the Israeli Companies law, the Board may, at any time, amend, restate or cancel the delegation of any of its powers to any of its committees. The Board has appointed an internal audit committee under the Israeli Companies Law that has three members, an audit committee that has five members, a compensation committee that has five members, a nominations committee that has two members and a mergers and acquisitions committee that has six members. In addition, from time to time the Board may appoint an ad hoc committee for certain purposes, such as the review, negotiation and recommendation of approval of M&A transactions. We do not have, nor do our subsidiaries have, any service contracts granting to the directors any benefits upon termination of their service as Board members.

## *Outside Directors*

Except as discussed below, under the Israeli Companies Law companies incorporated under the laws of Israel whose shares have been offered to the public in or outside of Israel are required to appoint at least two "outside" directors. Pursuant to regulations under the Israeli Companies Law that took effect in April 2016, a NASDAQ-listed company that does not have a controlling shareholder is entitled to opt out of the provisions of the Israeli Companies Law requiring at least two outside directors and certain related requirements, so long as the company complies with the SEC regulations and NASDAQ listing rules regarding independent directors and the composition of the audit and compensation committees. In December 2016, our shareholders approved amendments to our articles of association, pursuant to which our Board of Directors may elect to opt out of such requirements for appointment of outside directors (together the "2016 Relief Amendments"). At this time, our Board of Directors has not made an election to opt out of such requirements.

Outside directors are required to possess professional qualifications as set out in regulations promulgated under the Israeli Companies Law. The Israeli Companies Law provides that a person may not be appointed as an outside director if (i) such person or person's relative or affiliate has, at the date of appointment, or had at any time during the two years preceding such date, any affiliation with the company, a controlling shareholder thereof or their respective affiliates; or (ii) in a company that does not have a 25% shareholder, such person has an affiliation with any person who, at the time of appointment, is the chairman, the chief executive officer, the chief financial officer or a 5% shareholder of the company. In general, the term "affiliation" includes: an employment relationship; a business or professional relationship maintained on a regular basis; control; and service as an office holder.

No person may serve as an outside director if the person's position or other activities create or may create a conflict of interest with the person's responsibilities as an outside director or may otherwise interfere with the person's ability to serve as an outside director. Until the lapse of two years from termination of office, a company or its controlling shareholder may not give any direct or indirect benefit to the former outside director.

Outside directors are to be elected by a majority vote at a shareholders' meeting, provided that either:

- the majority of shares voted at the meeting shall include at least a majority of the shares of non-controlling shareholders present at the meeting and voting on the matter (without taking into account the votes of the abstaining shareholders); or
- the total number of shares of non-controlling shareholders voted against the election of the outside directors does not exceed two percent of the aggregate voting rights in the company.

The initial term of an outside director is three years and may be extended for up to two additional three-year terms. Thereafter, he or she may be reelected by our shareholders for additional periods of up to three years each only if the internal

audit committee and the Board of Directors confirm that, in light of the outside director's expertise and special contribution to the work of the Board of Directors and its committees, the reelection for such additional period is beneficial to the company. Reelection of an outside director may be effected through one of the following mechanisms: (1) the Board of Directors proposed the reelection of the nominee and the election was approved by the shareholders in the same manner required to appoint outside directors for their initial term; or (2) one or more shareholders holding one percent or more of a company's voting rights or the outside director proposed the reelection of the nominee, and the reelection is approved by a majority of the votes cast by the shareholders of the company, excluding the votes of controlling shareholders and those who have a personal interest in the matter as a result of their relations with the controlling shareholders, provided that the aggregate votes cast in favor of the reelection by such non-excluded shareholders constitute more than two percent of the voting rights in the company. An outside director may be removed only in a general meeting, by the same percentage of shareholders as is required for electing an outside director, or by a court, and in both cases only if the outside director ceases to meet the statutory qualifications for appointment or if he or she has violated the duty of loyalty to us. Unless we actually adopt the applicable relief provided under the 2016 Relief Amendments, each committee of the Company's Board of Directors which is empowered to exercise any of the Board's powers is required to include at least one outside director, provided that each of the internal audit committee and compensation committee must include all of the outside directors. At this time, our Board of Directors has not made an election to opt out of such requirements.

An outside director is entitled to compensation as provided in regulations adopted under the Israeli Companies Law and is otherwise prohibited from receiving any other compensation, directly or indirectly, from the company. In accordance with such regulations, our shareholders approved that our outside directors are to receive compensation equal to that paid to the other members of the Board of Directors. For further information, please see Item 6, "Directors, Senior Management and Employees—Compensation" in this annual report.

#### *Financial and Accounting Expertise*

Pursuant to the Israeli Companies Law, our Board of Directors has determined that at least one member of our Board of Directors must be an "accounting and financial expert." The Israeli Companies Law requires that all outside directors must be "professionally qualified." Under applicable NASDAQ rules, each member of our audit committee must be financially literate and at least one of the members must have experience or background that results in such member's financial sophistication. Our Board of Directors has determined that each of Dan Falk and Yocheved Dvir is an "accounting and financial expert" for purposes of the Israeli Companies Law and is financially sophisticated for purposes of applicable NASDAQ rules. See also Item 16A, "Audit Committee Financial Expert" in this annual report.

#### *Independent Directors*

Under the rules of the NASDAQ, a majority of our directors are required to be "independent" as defined in applicable NASDAQ rules. All of our directors satisfy the respective independence requirements of NASDAQ.

In addition, our Articles of Association provide that, if we do not have a shareholder that holds 25% or more of our issued and outstanding share capital, a majority of the directors must be "independent" as defined in the Israeli Companies Law and the regulations promulgated thereunder. If we have a shareholder that holds 25% or more of our issued and outstanding share capital, then at least one third of the directors must be "independent." All of our directors satisfy the respective independence requirements of the Israeli Companies Law. The qualifications for independent directors under the Israeli Companies Law are similar to those for outside directors, as described above under "Outside Directors", including the nine-year term limit and the ability to extend such term beyond nine years upon the approval of our internal audit committee and Board of Directors.

#### *Internal Audit Committee*

The Israeli Companies Law requires public companies to appoint an internal audit committee. The role of the internal audit committee under the Israeli Companies Law is to examine flaws in the management of the company's business in consultation with the internal auditors and the independent accountants, and to propose remedial measures to the Board. The internal audit committee also reviews interested party transactions for approval as required by law, including approval of the remuneration of a director in any capacity, which also requires Board, compensation committee and shareholder approval. The internal audit committee also assesses our internal audit system and the performance of our internal auditor and oversees the implementation and enforcement of our compliance program. Under the Israeli Companies Law, an internal audit committee must consist of at least three directors, including all of the outside directors. The members of the internal audit



committee must satisfy certain independence standards under the Israeli Companies Law, and the chairman of the internal audit committee must be an outside director. The following may not serve as members of the internal audit committee: the chairman of the Board of Directors, any director employed by the company or by its controlling shareholder or by an entity controlled by the controlling shareholder, a director who regularly provides services to the company or to its controlling shareholder, any director who derives most of its income from the controlling shareholder and a controlling shareholder or any relative of a controlling shareholder. Pursuant to the 2016 Relief Amendments, the Company may elect to opt out of the composition and attendance rules set with respect to the internal audit committee under the Israeli Companies Law, so long as the company complies with the SEC regulations and NASDAQ listing rules regarding the composition and attendance rules in that respect. At this time, our Board of Directors has not made an election to opt out of such requirements.

All of the current members of our internal audit committee (presently comprised of Yocheved Dvir (Chairman), Dan Falk and Zehava Simon) meet these qualifications.

#### *Internal Auditor*

Under the Israeli Companies Law, the Board of Directors must appoint an internal auditor, proposed by the internal audit committee. The role of the internal auditor is to examine, among other matters, whether the company's activities comply with the law and orderly business procedures. Under the Israeli Companies Law, the internal auditor may be an employee of the company but may not be an interested party or office holder, or a relative of any interested party or office holder and may not be a member of the company's independent accounting firm or its representative. We have appointed an internal auditor in accordance with the requirements of the Israeli Companies Law.

#### *Audit Committee*

The NASDAQ rules require that the audit committee of a listed company be composed of at least three directors, each of whom is (i) independent; (ii) does not receive any compensation (except for board fees) from the company; (iii) is not an affiliated person of the company or any subsidiary; and (iv) has not participated in the preparation of the company's (or a current subsidiary's) financial statements during the past three years. All of the current members of our audit committee (presently comprised of Rimon Ben-Shaoul (Chairman), David Kostman, Dan Falk, Yocheved Dvir and Zehava Simon) meet the NASDAQ standards described above.

Our audit committee has adopted a charter specifying the committee's purpose and outlining its duties and responsibilities which include, among other things, (i) appointing, retaining and compensating the company's independent auditor, subject to Board of Directors and shareholder approval, (ii) pre-approving all services of the independent auditor, (iii) reviewing the annual audited financial statements and quarterly financial statements and the content of our earnings press releases, and (iv) overseeing our accounting and financial reporting processes and the audits of our financial statements. Our audit committee is also authorized to act as our "qualified legal compliance committee." As such, our audit committee will be responsible for investigating reports made by attorneys appearing and practicing before the SEC in representing us, of perceived material violations of U.S. federal or state securities laws, breaches of fiduciary duty or similar material violations of U.S. law by us or any of our agents.

We believe we currently meet the applicable NASDAQ requirements with respect to our Audit Committee and we intend to continue to take all actions as may be necessary for us to maintain our compliance with applicable NASDAQ requirements with respect to our Audit Committee.

#### *Compensation Committee*

As required by NASDAQ rules, our compensation committee approves the compensation of our executive officers. The compensation committee is also authorized to approve the grant of stock options and other securities to eligible grantees under our benefit plans pursuant to guidelines adopted by our Board of Directors. However, grants of stock options and other securities to our executive officers also require approval of our Board of Directors. Under the Israeli Companies Law, the Board of Directors of a public company must establish a compensation committee. Pursuant to the 2016 Relief Amendments, the Company may elect to opt out of the relevant composition and attendance rules set under the Israeli Companies Law, and to comply with the SEC regulations and NASDAQ listing rules that apply to the composition and attendance rules of a compensation committee. At this time, our Board of Directors has not made an election to opt out of such requirements and we have continued to comply with the Israeli Companies Law with respect to the composition and attendance rules of a compensation committee, as our compensation committee consists of at least three directors who satisfy the independence

qualifications detailed above in “Internal Audit Committee”, and the chairman of the compensation committee is an outside director.

Under the Israeli Companies Law, the role of the compensation committee is to recommend to the Board of Directors, for ultimate shareholder approval by a special majority, a policy governing the compensation of office holders based on specified criteria, to review modifications to the Compensation Policy from time to time, to review its implementation and to approve the actual compensation terms of office holders prior to the approval thereof by the Board of Directors.

Pursuant to the NASDAQ rules, our compensation committee is required to consist of at least two members, with all members of the compensation committee required to be independent, unless we elect to take advantage of the exemption provided to foreign private issuers to comply with home country practice instead of the listing rules of exchanges such as NASDAQ, which we do not presently intend to do. The determination of whether a director is independent takes into account all factors relevant to whether a director has a relationship with the Company which would be material to such director’s ability to be independent from management in connection with carrying out the duties of a compensation committee member. Factors required for consideration in making this determination specifically include (i) the source of compensation of such director (including any consulting, advisory or other compensatory fee paid to such director) and (ii) whether such director is affiliated with the Company or one of its affiliates or subsidiaries. Pursuant to the NASDAQ rules, we are also required to have a compensation committee charter, which, among other things, must set forth the scope of the compensation committee’s responsibilities and how they will be carried out, as well as grant the compensation committee the power to retain compensation advisers following consideration of certain factors that may be indicative of a conflict of interest by the compensation adviser in rendering compensation advice.

Our Board of Directors adopted a compensation committee charter that includes the requirements of the NASDAQ rules. However, the charter provides that if there is any conflict between the responsibilities and requirements set forth therein and either the Israeli Companies Law or the Compensation Policy, the latter will govern. For information regarding the Compensation Policy, see Item 10, “Additional Information – Memorandum and Articles of Association – Approval of Office Holder Compensation” in this annual report.

We do not believe that there are any existing conflicts between the compensation committee charter and either of the Israeli Companies Law or the Compensation Policy. However, if any such conflict should develop, such that we are no longer in compliance with the requirements of the NASDAQ rules, we intend to utilize the foreign private issuer exemption described above with respect to such requirement, and in accordance with the NASDAQ rules we will disclose the practice that we follow in lieu of the applicable NASDAQ requirement in our future annual reports.

All of the current members of the compensation committee, Dan Falk (chairman), Yocheved Dvir, Joe Cowan, Leo Apotheker and Zehava Simon, satisfy the respective independence requirements of both the NASDAQ rules and the Israeli Companies Law.

#### *Nominations Committee*

As required by NASDAQ rules, our nominations committee recommends candidates for election to our Board of Directors pursuant to a written charter. Both of the current members of this committee, David Kostman and Dan Falk, are independent directors.

#### *Mergers and Acquisitions Committee*

Our Board of Directors has delegated powers with respect to the review and recommendation of mergers and acquisitions and related investments and transactions, which are then subject to approval by the Board of Directors. The committee also has limited authority to approve mergers and acquisitions for consideration up to a certain amount. All of the current members of this committee, David Kostman (chairman), Dan Falk, Rimon Ben Shaoul, Yehoshua Ehrlich, Leo Apotheker and Joe Cowan, are independent directors.

#### **Item 6D. Employees.**

As of December 31, 2020, we had 6,383 employees worldwide, which represented an increase of approximately 6.5% from December 31, 2019.

The following table sets forth the number of our full-time employees at the end of each of the last three fiscal years as well as the main category of activity and geographic location of such employees:

<b>Category of Activity</b>	<b>At December 31,</b>		
	<b>2018</b>	<b>2019</b>	<b>2020</b>
Customer Support*	2,196	2,344	2,391
Sales & Marketing	1,210	1,294	1,363
Research & Development	1,482	1,695	1,949
General & Administrative	616	663	680
<b>Total</b>	<b>5,504</b>	<b>5,996</b>	<b>6,383</b>
<b>Geographic Location</b>			
Israel	856	864	846
Americas	2,649	2,751	2,899
Europe	512	531	543
Asia Pacific	1,487	1,850	2,095
<b>Total</b>	<b>5,504</b>	<b>5,996</b>	<b>6,383</b>

\* Including the number of employees designated under “Operations” in previous reports.

We also utilize temporary employees in various activities. On average, we employed 59 temporary employees and obtained services from 942 consultants (not included in the numbers set forth above) during 2020.

Our future success will depend in part upon our ability to attract and retain highly skilled and qualified personnel. Although competition for such personnel is generally intense, we believe that adequate personnel resources are currently available to meet our requirements.

We are not a party to any collective bargaining agreement with our employees or with any labor organization in substantially all jurisdictions where we operate. However, we are subject to certain labor related statutes and certain provisions of collective bargaining agreements between the Histadrut (General Federation of Labor in Israel) and the Coordinating Bureau of Economic Organizations (including the Industrialists’ Association of Israel) that apply to our Israeli employees by order of the Israeli Ministry of Labor and Welfare. These statutes and provisions principally deal with the length of the work day and the work week, minimum wages, insurance coverage of work-related accidents, determination of severance pay and the provisions of other employment matters. Israeli law generally requires the payment of severance pay by employers upon an employee’s death, retirement or termination of employment by the employer without due cause. We currently fund our ongoing severance payment obligations in Israel by making monthly payments to approved severance funds or insurance policies. For more information please see Note 2p of our consolidated financial statements. In addition, according to the National Insurance Law, Israeli employers and employees are required to pay predetermined sums to the National Insurance Institute, an organization similar to the U.S. Social Security Administration. These contributions entitle the employees to benefits in periods of unemployment, work injury, maternity leave, disability, reserve military service and bankruptcy or winding-up of the employer and also include payments for national health insurance. The payments to the National Insurance Institute varies between 7.05%-19.6% of an employee’s salary (up to a certain cap as determined from time to time by the law), of which the employee contributes approximately 3.5%-12.0% and the employer contributes approximately 3.55%-7.6%.

In addition, we pay severance benefits to our employees located elsewhere in accordance with local laws and practices of the countries in which they are employed, including our U.S. based employees pursuant to the U.S. Federal Department labor legislation and requirements and local state regulations.

## *Employment Agreements*

We have employment agreements with our officers. Pursuant to these employment agreements, each party may terminate the employment without cause by giving a 30, 60 or 90 day prior written notice (six to twelve months in case of certain senior officers). In addition, we may terminate such agreement for cause with no prior notice. The agreements generally include non-competition and non-disclosure provisions, although the enforceability of non-competition provisions in employment agreements may be limited under applicable law.

### **Item 6E. Share Ownership.**

As of March 8, 2021, our directors and executive officers then-serving beneficially owned an aggregate of 229,934 ordinary shares, including options and restricted share units to purchase ordinary shares that were vested on such date or that are scheduled to vest within 60 days thereafter, or approximately 0.36% of our outstanding ordinary shares. The options and restricted share units have an average exercise price of \$90.4 per share and the options will expire between 2020 and 2027. No individual director or executive officer beneficially owns 1% or more of our outstanding ordinary shares.

The following is a description of each of our option equity plans under which awards were outstanding during 2020.

#### *2008 Share Incentive Plan and 2016 Share Incentive Plan*

In June 2008 the Company adopted the 2008 Share Incentive Plan (the “2008 Plan”) and in February 2016 the Company adopted the 2016 Share Incentive Plan (the “2016 Plan”, and together with the 2008 Plan, the “Plans”). The Company adopted the Plans to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve the Company’s profitability.

Under each of the Plans, the Company’s employees, directors, consultants and/or contractors may be granted any equity-related award, including: any type of an option to acquire the Company ordinary shares; share appreciation right; share and/or restricted share award (“RSA”); restricted stock unit (“RSU”) and/or other share unit; and/or other share-based award and/or other right or benefit under the Plans, including any such equity-related award that is a performance-based award (each an “Award”). In regard to the 2008 Plan, please see the discussion below regarding performance-based awards beginning in calendar year 2014.

Generally, under the terms of the Plans, unless determined otherwise by the administrator of the Plans, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Specifically with respect to RSUs and options granted with an exercise price equal to the nominal value of an ordinary share (“par value options”), unless determined otherwise by the Board of Directors, 25% of the RSUs and the par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant. Certain executive officers are entitled to acceleration of vesting of Awards in the event of a change of control, subject to certain conditions. Awards with a vesting period expire six years after the date of grant. Pursuant to a resolution of the Company’s Board of Directors dated February 4, 2014, options that are performance-based and that were granted during calendar year 2014 and thereafter shall expire seven years following the date of grant. The maximum number of shares that may be subject to Awards granted under each of the Plans is calculated each calendar year as 3% of the Company’s issued and outstanding share capital as of December 31 of the preceding calendar year. Such amount is reset for each calendar year. Awards are non-transferable except by will or the laws of descent and distribution.

Options granted under the Plans are granted at an exercise price equal to the average of the closing prices of one ADR as quoted on the NASDAQ market during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the Plans (including par value options in some cases).

The Company’s Board of Directors also adopted an addendum to the Plans for Awards granted to residents of Israel (the “Addendum”) and resolved to elect the “Capital Gains Route” (as defined in Section 102(b)(2)) of the Israeli Income Tax Ordinance-5721-1961 (“Tax Ordinance”) for the grant of Awards to Israeli grantees. There is also a U.S. addendum under each of the Plans that applies to non-qualified stock options for purposes of U.S. tax laws.

The Plans are generally administered by our Board of Directors and compensation committee, which determine the grantees under the Plan and the number of Awards to be granted. As of March 8, 2021, options and restricted share units to purchase 34,843 ordinary shares were outstanding under the 2008 Plan at a weighted average exercise price of \$27.97. As of

March 8, 2021, options and restricted share units to purchase 2,364,260 ordinary shares were outstanding under the 2016 Plan at a weighted average exercise price of \$8.92.

*Guardian Analytics, Inc. 2006 Stock Plan*

In 2006, Guardian Analytics, Inc. (“Guardian Analytics”) adopted the Guardian Analytics, Inc. 2006 Stock Plan (the “Guardian Plan”), to attract and retain Guardian Analytics’ employees and consultants (which includes its directors and advisors), and to align the interests of such recipients with the interests of Guardian Analytics’ shareholders.

Pursuant to the terms of the Guardian Analytics acquisition agreement, we assumed and converted Guardian Analytics’ stock options originally granted under the Guardian Plan into stock options of NICE.

As of March 8, 2021, assumed Guardian Analytics stock options to purchase 5,418 shares of NICE were outstanding under the Guardian Plan, at a weighted average exercise price of \$33.03. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 5,823 ordinary shares for issuance under the Guardian Plan.

*Nexidia Inc. 2005 Stock Incentive Plan*

In 2005, Nexidia adopted the Nexidia Inc. 2005 Stock Incentive Plan (the “Nexidia Plan”), to attract and retain Nexidia’s employees, directors, consultants and advisors and to align the interests of such recipients with the interests of Nexidia’s shareholders.

Pursuant to the terms of the Nexidia acquisition agreement, we assumed and converted Nexidia’s stock options and restricted stock units originally granted under the Nexidia Plan into stock options and restricted stock units of NICE, respectively.

As of March 8, 2021, assumed Nexidia options to purchase 4,113 shares of NICE were outstanding under the Nexidia Plan, at a weighted average exercise price of \$3.85. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 173,860 ordinary shares for issuance under the Nexidia Plan.

*inContact, Inc. 2008 Equity Incentive Plan*

In 2008, inContact adopted the inContact, Inc. 2008 Equity Incentive Plan, as subsequently amended in June 14, 2012 (as amended, the “inContact Plan”) to enhance inContact’s ability to attract and retain those employees, officers, directors and consultants who are expected to make important contributions to inContact and any of its subsidiaries and to align the interests of such recipients with the interests of inContact’s shareholders.

Pursuant to the terms of the inContact acquisition agreement, we assumed and converted inContact’s stock options, restricted stock awards and restricted stock units originally granted under the inContact Plan into stock options, restricted stock awards and restricted stock units of NICE, respectively.

As of March 8, 2021, assumed inContact options and restricted share units to purchase 6,174 shares of NICE were outstanding under the inContact Plan, at a weighted average exercise price of \$40.66. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 476,114 ordinary shares for issuance under the inContact Plan.

*Mattersight Corporation, 1999 Stock Incentive Plan*

In 1999, Mattersight adopted the Mattersight Corporation 1999 Stock Incentive Plan, as amended on June 14, 2012 (the “Mattersight Plan”) to enhance Mattersight’s ability to attract and retain directors (including Non-Employee Directors), officers, other key employees, consultants, independent contractors by motivating such persons to act in the long-term best interests of the company’s stockholders.

Pursuant to the terms of the Mattersight Agreement and Plan of Merger, we assumed and converted Mattersight restricted stock awards units originally granted under the Mattersight Plan into restricted share awards of NICE under the Mattersight Plan.

As of March 8, 2021, assumed Mattersight restricted share awards to purchase 562 shares of NICE were outstanding under the Mattersight Plan. The exercise price per share underlying the restricted share awards is equal to the nominal value of an ordinary share. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 13,242 ordinary shares for issuance under the Mattersight Plan.

**Item 7. Major Shareholders and Related Party Transactions**

**Major Shareholders**

The following table sets forth certain information with respect to the beneficial ownership of our ordinary shares, with respect to each person known to us to be the beneficial owner of 5% or more of our outstanding ordinary shares, reported as of March 8, 2021. None of our shareholders has any different voting rights than any other shareholder.

Name and Address	Number of Shares	Percent of Shares Beneficially Owned <sup>(1)</sup>
Capital Research Global Investors	5,943,322 (2)	9.4 %
FMR LLC	4,150,204 (3)	6.6 %
Artisan Partners Limited Partnership	3,566,858 (4)	5.6 %
BlackRock, Inc.	3,359,464 (5)	5.3 %

(1) Based upon 63,121,441 ordinary shares issued and outstanding as of March 8, 2021.

(2) The information is based upon a Schedule 13G filed with the SEC by Capital Research Global Investors (“CRGI”) on February 16, 2021. CRGI reported that more than 5% of the shares were owned on behalf of EuroPacific Growth Fund.

(3) The information is based upon a Schedule 13G filed with the SEC by the reporting persons on February 8, 2021. FMR LLC and Abigail Johnson reported that these shares are held through certain specified entities.

(4) The information is based upon a Schedule 13G filed with the SEC by Artisan Partners Limited Partnership on February 10, 2021.

(5) The information is based upon a Schedule 13G filed with the SEC by BlackRock, Inc. on February 5, 2021.

On February 13, 2020, Janus Henderson Group plc filed a Schedule 13G/A with the SEC reporting that they are no longer a beneficial owner of 5% or more of our outstanding ordinary shares.

As of March 8, 2021, we had 49 registered ADS holders of record in the United States, with our ADS holders holding in total approximately 62% of our outstanding ordinary shares, as reported by JPMorgan Chase Bank, N.A., the depository for our ADSs.

To our knowledge, we are not directly or indirectly owned or controlled by another corporation or by any foreign government and there are no arrangements that might result in a change in control of our company.

**Related Party Transactions**

None.

**Item 8. Financial Information.**

**Consolidated Statements and Other Financial Information**

See Item 18, “Financial Statements” in this annual report.

**Legal Proceedings**

From time to time we or our subsidiaries may be involved in legal proceedings and/or litigation arising in the ordinary course of our business. While the outcome of these matters cannot be predicted with certainty, we do not believe they, individually or in the aggregate, will have a material effect on our business, consolidated financial position, results of operations, or cash flows.

**Dividends**

We do not have any plans at this time to make any future dividend payments. Payment of future dividends, if any, will be at the discretion of our Board of Directors and will depend on various factors, such as our statutory profits, financial condition, operating results and current and anticipated cash needs. In the event cash dividends are declared by us, we may decide to pay such dividends in Israeli currency. Under current Israeli regulations, any cash dividend in Israeli currency paid in respect of ordinary shares purchased by non-residents of Israel with non-Israeli currency may be freely repatriated in such non-Israeli currency, at the rate of exchange prevailing at the time of conversion. For more information regarding the taxation implications of the dividend plan, see “Item 10 - Additional Information - Taxation” of this annual report.

**Significant Changes**

There are no significant changes that occurred since December 31, 2020, except as otherwise disclosed in this annual report and in the annual consolidated financial statements included in this annual report.

**Item 9. The Offer and Listing.**

***Trading in the ADSs***

Our ADSs have been quoted on the NASDAQ Stock Market under the symbol “NICEV” from our initial public offering in January 1996 until April 7, 1999, and thereafter under the symbol “NICE.” Prior to that time, there was no public market for our ordinary shares in the United States. Each ADS represents one ordinary share.

JPMorgan Chase Bank, N.A. is the depository for our ADSs. Its address is 4 New York Plaza, Floor 12, New York, New York 10004.

***Trading in the Ordinary Shares***

Our ordinary shares have been listed on the Tel-Aviv Stock Exchange, or TASE, since 1991 under the symbol “NICE.TA.” Our ordinary shares are not listed on any other stock exchange and have not been publicly traded outside Israel (other than through ADSs, as noted above).

**Item 10. Additional Information.**

**Memorandum and Articles of Association**

***Organization and Register***

We are a company limited by shares organized in the State of Israel under the Israeli Companies Law. We are registered with the Registrar of Companies of the State of Israel and have the company number 52-0036872.

## *Objectives and Purposes*

Our objectives and purposes include a wide variety of business purposes, including all kinds of research, development, manufacture, distribution, service and maintenance of products in all fields of technology and engineering and to engage in any other kind of business or commercial activity. Our objectives and purposes are set forth in detail in Section 2 of our memorandum of association.

## *Directors*

Our articles of association provide that the number of directors serving on the Board shall be not less than three but shall not exceed thirteen. As discussed above in Item 6, “Directors, Senior Management and Employees – Board Practices – Outside Directors,” in December 2016, our shareholders approved amendments to our articles of association, pursuant to which our Board of Directors may elect to opt out of such requirements and we would not be required to have outside directors serve on our Board of Directors. Our directors, other than outside directors, are elected at the annual shareholders meeting to serve until the next annual meeting or until their earlier death, resignation, bankruptcy, incapacity or removal by resolution of the general shareholders meeting. Directors may be re-elected at each annual shareholders’ meeting. The Board may appoint additional directors (whether to fill a vacancy or create new directorship) to serve until the next annual shareholders meeting, provided, however, that the Board shall have no obligation to fill any vacancy unless the number of directors is less than three. Our officers serve at the discretion of the Board.

The Board of Directors may meet and adjourn its meetings according to the Company’s needs but must meet at least once every three months. A meeting of the Board may be called at the request of any two directors. The quorum required for a meeting of the Board consists of a majority of directors who are lawfully entitled to participate in the meeting and vote thereon. The adoption of a resolution by the Board requires approval by a simple majority of the directors present at a meeting in which such resolution is proposed. In lieu of a Board meeting, a resolution may be adopted if all of the directors lawfully entitled to vote thereon consent not to convene a meeting.

Subject to the Israeli Companies law, the Board may appoint a committee of the Board and delegate to such committee all or any of the powers of the Board, as it deems appropriate. Under the Israeli Companies Law, the Board of Directors must appoint an internal audit committee comprised of at least three directors. The function of the internal audit committee is to review irregularities in the management of the Company’s business and recommend remedial measures. The committee is also required, under the Israeli Companies Law, to approve certain related party transactions and to assess our internal audit system and the performance of our internal auditor. Notwithstanding the foregoing, the Board may, at any time, amend, restate or cancel the delegation of any of its powers to any of its committees. The Board has appointed an internal audit committee which has three members, an audit committee which has five members, a compensation committee which has five members, a nominations committee which has two members and a mergers and acquisitions committee which has six members. For more information on the Company’s committees, please see Item 6, “Directors, Senior Management and Employees—Board Practices” in this annual report.

## *Fiduciary Duties of Officers*

The Israeli Companies Law codifies the fiduciary duties that “office holders,” including directors and executive officers, owe to a company. An office holder’s fiduciary duties consist of a duty of care and a duty of loyalty. The duty of loyalty includes avoiding any conflict of interest between the office holder’s position in the company and his personal affairs, avoiding any competition with the company, avoiding exploiting any business opportunity of the company in order to receive personal advantage for himself or others, and revealing to the company any information or documents relating to the company’s affairs which the office holder has received due to his position as an office holder.

## *Approval of Certain Transactions*

The Israeli Companies Law requires that an office holder of a company promptly disclose any personal interest that he or she may have and all related material information known to him or her, in connection with any existing or proposed transaction by the company. In addition, if the transaction is an extraordinary transaction as defined under Israeli law, the office holder must also disclose any personal interest held by the office holder’s spouse, siblings, parents, grandparents, descendants, spouse’s descendants and the spouses of any of the foregoing. In addition, the office holder must also disclose any interest held by any corporation in which the office holder is a 5% or greater shareholder, director or general manager or in which he or she has the right to appoint at least one director or the general manager. An extraordinary transaction is



defined as a transaction not in the ordinary course of business, not on market terms, or that is likely to have a material impact on the company's profitability, assets or liabilities.

In the case of a transaction which is not an extraordinary transaction, after the office holder complies with the above disclosure requirement, only Board approval is required unless the articles of association of the company provide otherwise. The transaction must not be adverse to the company's interest. Furthermore, if the transaction is an extraordinary transaction, then, in addition to any approval stipulated by the articles of association, it also must be approved by the company's internal audit committee and then by the Board of Directors, and, under certain circumstances, by a meeting of the shareholders of the company. An office holder who has a personal interest in a transaction that is considered at a meeting of the Board of Directors or the internal audit committee generally may not be present at the deliberations or vote on this matter, unless the chairman of the Board or chairman of the internal audit committee, as the case may be, determined that the presence of such person is necessary to present the transaction to the meeting. If a majority of the directors have a personal interest in an extraordinary transaction with the company, shareholder approval of the transaction is required.

It is the responsibility of the audit committee to determine whether or not a transaction should be deemed an extraordinary transaction. In addition, the audit committee must also establish (i) procedures for the consideration of any transaction with a controlling shareholder, even if it is not extraordinary, such as a competitive process with third parties or negotiation by independent directors, and (ii) approval requirements for controlling shareholder transactions that are not negligible.

The Israeli Companies Law applies the same disclosure requirements to a controlling shareholder of a public company, which includes a shareholder that holds 25% or more of the voting rights if no other shareholder owns more than 50% of the voting rights in the company. Extraordinary transactions with a controlling shareholder or in which a controlling shareholder has a personal interest, and the terms of management fees of a controlling shareholder or compensation of a controlling shareholder who is an office holder, require the approval of the audit committee, the Board of Directors and the shareholders of the company by simple majority; provided that either such majority vote must include at least a simple majority of the shareholders who have no personal interest in the transaction and are present at the meeting (without taking into account the votes of the abstaining shareholders), or that the total shareholdings of those who have no personal interest in the transaction who vote against the transaction represent no more than two percent of the voting rights in the company. Any such extraordinary transaction whose term is longer than three years requires further shareholder approval every three years, unless (with respect to transactions not involving management fees or employment terms) the internal audit committee approves that a longer term is reasonable under the circumstances.

In addition, under the Israeli Companies Law, a private placement of securities requires approval by the Board of Directors and the shareholders of the company if it will cause a person to become a controlling shareholder or if:

- the securities issued amount to 20% or more of the company's outstanding voting rights before the issuance;
- some or all of the consideration is other than cash or listed securities or the transaction is not on market terms; and
- the transaction will increase the relative holdings of a shareholder that holds 5% or more of the company's outstanding share capital or voting rights or that will cause any person to become, as a result of the issuance, a holder of more than 5% of the company's outstanding share capital or voting rights.

According to the Company's articles of association, certain resolutions, such as resolutions regarding mergers and windings up, require approval of the holders of 75% of the shares represented at the meeting and voting thereon.

#### *Approval of Office Holder Compensation*

Under the Israeli Companies Law, we are required to adopt a compensation policy, recommended by the compensation committee, and approved by the Board of Directors and the shareholders, in that order, at least once every three years. The shareholder approval requires a majority of the votes cast by shareholders, excluding any controlling shareholder and those who have a personal interest in the matter (similar to the threshold described above). The most recent amendment to our Compensation Policy was approved by our shareholders at our 2019 annual general meeting. In general, all office holders' terms of compensation – including fixed remuneration, bonuses, equity compensation, retirement or termination

payments, indemnification, liability insurance and the grant of an exemption from liability - must comply with the Company's Compensation Policy. Although NASDAQ rules generally require shareholder approval when an equity-based compensation plan is established or materially amended, as a foreign company we follow the aforementioned requirements of the Israeli Companies Law.

In addition, the compensation terms of directors, the chief executive officer, and any employee or service provider who is considered a controlling shareholder generally must be approved separately by the compensation committee, the Board of Directors and the shareholders of the company, in that order. Notwithstanding, a company's compensation committee and board of directors are permitted to approve the compensation terms of a chief executive officer or of a director, without convening a general meeting of shareholders, provided however, that such terms: (1) are not more beneficial than such officer's former terms or than the terms of his predecessor, or are essentially the same in their effect; (2) are in line with the Compensation Policy; and (3) are brought for shareholder approval at the next general meeting of shareholders.

The compensation terms of other officers require the approval of the compensation committee and the Board of Directors. An amendment of existing compensation terms of an office holder who is not a director, if the compensation committee determines that the amendment is not material, requires the approval of the compensation committee only. Pursuant to regulations promulgated under the Israeli Companies Law, an amendment of the existing compensation terms of office holders who are subordinate to the chief executive officer, if the amendment is not material and the changes are in line with the existing Compensation Policy, requires only the chief executive officer's approval. Under our Compensation Policy, our Chief Executive Officer is authorized to approve non-material changes to the compensation terms of office holders subordinated to him, without seeking the approval of the compensation committee.

The Compensation Policy sets forth the guidelines for the compensation of our office holders. It is tailored to ensure a compensation which balances performance targets and time horizons through rewarding business results and long-term performance. The Compensation Policy requires that compensation of our officer holders include a mix of fixed amounts (such as annual based salaries), variable performance-based components (such as performance-based cash incentive compensation), and long term incentive components (such as long-term equity-based compensation, including performance-based equity). Pursuant to the Compensation Policy, performance-based compensation granted may be based on our overall performance, the particular unit performance, individual performance and the results of the customer satisfaction survey conducted annually. Our Compensation Policy includes applicable clawback provisions.

#### *Duties of Shareholders*

Under the Israeli Companies Law, a shareholder has a duty to act in good faith towards the company and other shareholders and to refrain from abusing his or her power in the company including, among other things, voting in a general meeting of shareholders on the following matters:

- any amendment to the articles of association;
- an increase of the company's authorized share capital;
- a merger; or
- approval of interested party transactions which require shareholder approval.

In addition, any controlling shareholder, any shareholder who knows that it possesses power to determine the outcome of a shareholder vote and any shareholder who, pursuant to the provisions of a company's articles of association, has the power to appoint or prevent the appointment of an office holder in the company, is under a duty to act with fairness towards the company. The Israeli Companies Law does not describe the substance of this duty but provides that a breach of his duty is tantamount to a breach of fiduciary duty of an officer of the company.

#### ***Exemption, Insurance and Indemnification of Directors and Officers***

##### *Exemption of Office Holders*

Under the Israeli Companies Law, an Israeli company may not exempt an office holder from liability for breach of his duty of loyalty but may exempt in advance an office holder from liability to the company, in whole or in part, for a breach

of his duty of care (except in connection with distributions), provided the articles of association of the company allow it to do so. Our articles of association do not allow us to do so.

#### *Office Holder Insurance*

Our articles of association provide that, subject to the provisions of the Israeli Companies Law, including the receipt of all approvals as required therein or under any applicable law, we may enter into an agreement to insure an office holder for any responsibility or liability that may be imposed on such office holder in connection with an act performed by such office holder in such office holder's capacity as an office holder of us with respect to each of the following:

- a violation of his duty of care to us or to another person;
- a breach of his duty of loyalty to us, provided that the office holder acted in good faith and had reasonable grounds to assume that his act would not prejudice our interests;
- a financial obligation imposed upon him for the benefit of another person;
- a payment which the office holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Israeli Securities Law, 5728-1968, as amended (the "Securities Law") and Litigation Expenses (as defined below) that the office holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law; and
- any other event, occurrence or circumstance in respect of which we may lawfully insure an office holder.

#### *Indemnification of Office Holders*

Our articles of association provide that, subject to the provisions of the Israeli Companies Law, including the receipt of all approvals as required therein or under any applicable law we may indemnify an office holder with respect to any liability or expense for which indemnification may be provided under the Companies Law, including the following liabilities and expenses, provided that such liabilities or expenses were imposed upon or incurred by such office holder in such office holder's capacity as an office holder of us:

- a monetary liability imposed on or incurred by an office holder pursuant to a judgment in favor of another person, including a judgment imposed on such office holder in a settlement or in an arbitration decision that was approved by a court of law;
- reasonable Litigation Expenses, expended by the office holder as a result of an investigation or proceeding instituted against him by a competent authority, provided that such investigation or proceeding concluded without the filing of an indictment against him and either (A) concluded without the imposition of any financial liability in lieu of criminal proceedings or (B) concluded with the imposition of a financial liability in lieu of criminal proceedings but relates to a criminal offense that does not require proof of criminal intent (*mens rea*) or in connection with a financial sanction;
- "conclusion of a proceeding without filing an indictment" in a matter in which a criminal investigation has been instigated and "financial liability in lieu of a criminal proceeding," have the meaning ascribed to them under the Israeli Companies Law. The term "Litigation Expenses" shall include, without limitation, attorneys' fees and all other costs, expenses and obligations paid or incurred by an office holder in connection with investigating, defending, being a witness or participating in (including on appeal), or preparing to defend, be a witness or participate in any claim or proceeding relating to any matter for which indemnification may be provided;
- reasonable Litigation Expenses, which the office holder incurred or with which the office holder was charged by a court of law, in a proceeding brought against the office holder, by the Company, on its behalf or by another person, or in a criminal prosecution in which the office holder was acquitted, or in a criminal prosecution in which the office holder was convicted of an offense that does not require proof of criminal intent (*mens rea*);

- a payment which the office holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Securities Law, and Litigation Expenses that the office holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law; and
- any other event, occurrence or circumstance in respect of which we may lawfully indemnify an office holder.

The foregoing indemnification may be procured by us (a) retroactively and (b) as a commitment in advance to indemnify an office holder, provided that, in respect of the first bullet above, such commitment shall be limited to (A) such events that in the opinion of the Board of Directors are foreseeable in light of our actual operations at the time the undertaking to indemnify is provided, and (B) to the amounts or criterion that the Board of Directors deems reasonable under the circumstances; and further provided that such events and amounts or criterion are set forth in the undertaking to indemnify, and which shall in no event exceed, in the aggregate, the greater of: (i) 25% of our shareholder's equity at the time of the indemnification or (ii) 25% of our shareholder's equity at the end of fiscal year of 2010.

We have undertaken to indemnify our directors and officers pursuant to applicable law and we have obtained directors' and officers' liability insurance for the benefit of our directors and officers.

#### *Limitations on Exemption, Insurance and Indemnification*

The Israeli Companies Law provides that a company may not exempt or indemnify an office holder, or enter into an insurance contract, which would provide coverage for any monetary liability incurred as a result of any of the following:

- a breach by the office holder of his duty of loyalty unless, with respect to insurance coverage or indemnification, the office holder acted in good faith and had a reasonable basis to believe that the act would not prejudice the company;
- a breach by the office holder of his duty of care if the breach was done intentionally or recklessly (other than if solely done in negligence);
- any act or omission done with the intent to derive an illegal personal benefit; or
- a fine, civil fine or ransom levied on an Office Holder, or a financial sanction imposed upon an Office Holder under Israeli Law.

#### *Required Approvals*

In addition, under the Israeli Companies Law, any exemption of, indemnification of, or procurement of insurance coverage for, our office holders must be approved by our audit committee and our Board of Directors and, if the beneficiary is the chief executive officer or a director, by our shareholders. We have obtained such approvals for the procurement of liability insurance covering our officers and directors and for the grant of indemnification letters to our officers and directors.

#### *Rights of Ordinary Shares*

Our ordinary shares confer upon our shareholders the right to receive notices of, and to attend, shareholder meetings, the right to one vote per ordinary share at all shareholders' meetings for all purposes, and to share equally, on a per share basis, in such dividends as may be declared by our Board of Directors; and upon liquidation or dissolution, the right to participate in the distribution of any surplus assets of the Company legally available for distribution to shareholders after payment of all debts and other liabilities of the Company. All ordinary shares rank *pari passu* in all respects with each other. Our Board of Directors may, from time to time, make such calls as it may think fit upon a shareholder in respect of any sum unpaid in respect of shares held by such shareholder which is not payable at a fixed time, and each shareholder shall pay the amount of every call so made upon him (and of each installment thereof if the same is payable in installments).

#### *Meetings of Shareholders*

An annual general meeting of our shareholders shall be held once in every calendar year at such time and at such place either within or without the State of Israel as may be determined by our Board of Directors.

Our Board of Directors may, whenever it thinks fit, convene a special general meeting at such time and place, within or without the State of Israel, as may be determined by the Board of Directors. Special general meetings may also be convened upon shareholder request in accordance with the Israeli Companies Law and our articles of association.

The quorum required for a meeting of shareholders consists of at least two shareholders present in person or by proxy who hold or represent between them at least 25% of the outstanding voting shares, unless otherwise required by applicable rules. Although NASDAQ generally requires a quorum of 33-1/3%, we have an exception under the NASDAQ rules and follow the generally accepted business practice for companies in Israel, which have a quorum requirement of 25%. A meeting adjourned for lack of a quorum generally is adjourned to the same day in the following week at the same time and place or any time and place as the chairman may designate with the consent of a majority of the voting power represented at the meeting and voting on the matter adjourned. At such reconvened meeting the required quorum consists of any two members present in person or by proxy.

### *Mergers and Acquisitions*

A merger of the Company shall require the approval of the holders of a majority of 75% of the voting power represented at the annual or special general meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon in accordance with the provisions of the Israeli Companies Law. Upon the request of a creditor of either party of the proposed merger, the court may delay or prevent the merger if it concludes that there exists a reasonable concern that as a result of the merger, the surviving company will be unable to satisfy the obligations of any of the parties to the merger. In addition, a merger may not be completed unless at least (i) 50 days have passed from the time that the requisite proposal for the merger has been filed by each party with the Israeli Registrar of Companies and (ii) 30 days have passed since the merger was approved by the shareholders of each party.

The Israeli Companies Law also provides that an acquisition of shares of a public company must be made by means of a tender offer if, as a result of the acquisition, the purchaser would become a 25% or greater shareholder of the company and there is no existing 25% or greater shareholder in the company. An acquisition of shares of a public company must be made by means of a tender offer if, as a result of the acquisition, the purchaser would hold more than 45% of the company and there is no existing shareholder of more than 45% in the company. These requirements do not apply if the acquisition (i) occurs in the context of a private placement by the company that received shareholder approval for the purpose of reaching such threshold, (ii) was from a 25% shareholder of the company and resulted in the acquirer becoming a 25% shareholder of the company or (iii) was from a greater than 45% shareholder of the company and resulted in the acquirer becoming a greater than 45% shareholder of the company. The tender offer must be extended to all shareholders, but the offeror is not required to purchase more than 5% of the company's outstanding shares, regardless of how many shares are tendered by shareholders. The tender offer may be consummated only if (i) at least 5% of the company's outstanding shares will be acquired by the offeror and (ii) the number of shares tendered in the offer exceeds the number of shares whose holders objected to the offer.

If as a result of an acquisition of shares the acquirer will hold more than 90% of a company's outstanding shares, the acquisition must be made by means of a tender offer for all of the outstanding shares. If as a result of a full tender offer the acquirer would own more than 95% of the outstanding shares, then all the shares that the acquirer offered to purchase will be transferred to it. The law provides for appraisal rights if any shareholder files a request in court within six months following the consummation of a full tender offer, but the acquirer is entitled to stipulate that tendering shareholders forfeit their appraisal rights. If as a result of a full tender offer the acquirer would own 95% or less of the outstanding shares, then the acquirer may not acquire shares that will cause his shareholding to exceed 90% of the outstanding shares.

### **Material Contracts**

#### *Notes and Indenture*

##### 2020 Notes and Indenture

On August 27, 2020, we issued \$400 million aggregate principal amount of 0% Convertible Senior Notes due 2025 (the "2020 Notes") and on September 4, 2020, we issued an additional \$60 million of the 2020 Notes pursuant to the exercise of the initial purchasers' option. The 2020 Notes are general unsecured obligations of the Company. The sale of the 2020 Notes generated net proceeds of approximately \$451 million. The 2020 Notes were issued pursuant to an indenture (the "2020 Indenture") between us and U. S. Bank National Association, as trustee (the "Trustee").

The 2020 Notes do not bear regular interest, and the principal amount of the 2020 Notes does not accrete. The 2020 Notes will mature on September 15, 2025, unless earlier prepaid, redeemed or converted, and are not redeemable at our option prior to September 21, 2023, except in the event of certain tax law changes. We may redeem for cash all or any portion of the 2020 Notes, at our option, on or after September 21, 2023 if the last reported sale price of the ADSs has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which we provide notice of redemption. In the case of any redemption, the redemption price will be equal to 100% of the principal amount of the 2020 Notes to be redeemed, plus accrued and unpaid special interest, if any, to, but excluding, the redemption date. A holder may convert its 2020 Notes at its option at any time prior to the close of business on the business day immediately preceding June 15, 2025 in the event certain conditions are met during set periods. On or after June 15, 2025, until the close of business on the second scheduled trading day immediately preceding the maturity date, a holder may convert its 2020 Notes at any time.

Upon conversion, we, at our election, can pay or deliver (i) cash, (ii) ADSs or (iii) a combination thereof. The conversion rate will initially be 3.3424 ADSs per \$1,000 principal amount of 2020 Notes (equivalent to an initial conversion price of approximately \$299.19 per ADS). The conversion rate will be subject to adjustment in some events. In addition, following certain corporate events that occur prior to the maturity date or our delivery of a notice of redemption, the Company will under certain circumstances, increase the conversion rate for a holder who elects to convert its 2020 Notes in connection with such a corporate event or to convert its 2020 Notes called for redemption in connection with such notice of redemption, as the case may be.

If we undergo a fundamental change, holders of the 2020 Notes will have the right to require us to repurchase all or a portion of their 2020 Notes upon the occurrence of a fundamental change (as defined in the 2020 Indenture) at a cash repurchase price equal to 100% of the principal amount of the 2020 Notes to be repurchased, plus any accrued and unpaid interest, if any, to, but excluding the fundamental change repurchase date.

#### 2017 Notes and Indenture

On January 18, 2017, NICE Systems issued \$287.5 million aggregate principal amount of the 1.25% Exchangeable Senior Notes due 2024 (the 2017 Notes together with the 2020 Notes, the “Notes”). The 2017 Notes are the general unsecured obligations of NICE Systems, guaranteed by us. The sale of the Notes generated net proceeds of approximately \$260.1 million. The 2017 Notes were issued pursuant to an indenture (the “2017 Indenture”, and collectively with the 2020 Indenture, the “Indenture(s)”) among us, NICE Systems and the Trustee.

The 2017 Notes bear interest at a fixed rate of 1.25% per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2017. The 2017 Notes will mature on January 15, 2024, unless earlier prepaid, redeemed or exchanged, and are not redeemable at NICE Systems’ option prior to their maturity date, except in the event of certain tax law changes. In the event certain conditions are met during set periods, the conditional exchange feature of the 2017 Notes may be triggered, meaning that holders of 2017 Notes are entitled at their option to exchange the 2017 Notes at any time during such specified periods. As disclosed in Note 15 to our consolidated financial statements, the conditional exchange feature of the 2017 Notes was previously triggered and the 2017 Notes are currently exchangeable at the option of the holders.

Subject to satisfaction of certain conditions and during certain periods as aforementioned, at the option of the holders the 2017 Notes are exchangeable for (at our election) (i) cash, (ii) ADSs or (iii) a combination thereof. The exchange rate was initially set at 12.0260 ADSs per \$1,000 principal amount of 2017 Notes (equivalent to an initial exchange price of approximately \$83.15 per ADS). The exchange rate is subject to adjustment in some events. In addition, following certain corporate events that occur prior to the maturity date or NICE Systems’ delivery of a notice of tax redemption, in certain circumstances NICE Systems will increase the exchange rate for a holder who elects to exchange its 2017 Notes in connection with such a corporate event or tax redemption, as the case may be.

If we or NICE Systems undergo a fundamental change (as defined in the Indenture), holders may require NICE Systems to prepay for cash all or part of their 2017 Notes at a prepayment price equal to 100% of the principal amount of the 2017 Notes to be prepaid, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change prepayment date.

The Indentures contain customary events of default, including a default in the payment of principal or interest when due, default in compliance with the covenants set forth therein, and certain events of bankruptcy, insolvency or reorganization.

## **Exchange Controls**

Holders of ADSs are able to convert dividends and liquidation distributions into freely repatriable non-Israeli currencies at the rate of exchange prevailing at the time of repatriation, pursuant to regulations issued under the Currency Control Law, 5738–1978, provided that Israeli income tax has been withheld by us with respect to amounts that are being repatriated to the extent applicable or an exemption has been obtained.

Our ADSs may be freely held and traded pursuant to the General Permit and the Currency Control Law. The ownership or voting of ADSs by non-residents of Israel are not restricted in any way by our memorandum of association or articles of association or by the laws of the State of Israel, except subjects of a country deemed an “enemy country” under Israeli legislation or persons or individuals on weapon of mass destruction or terror sanctions lists.

## **Taxation**

The following is a discussion of Israeli and United States tax consequences material to our shareholders. The discussion is not intended, and should not be construed, as legal or professional tax advice and does not exhaust all possible tax considerations.

Holders of our ADSs should consult their own tax advisors as to the United States, Israeli or other tax consequences of the purchase, ownership and disposition of our ADSs, including, in particular, the effect of any foreign, state or local taxes.

### ***Israeli Tax Considerations***

The following is a summary of both the general corporate tax laws applicable to companies in Israel, with special reference to their effect on us; and a discussion of the material tax consequences to purchasers of our ordinary shares or ADSs related to our domicile in Israel. This summary does not discuss all the aspects of Israeli tax law that may be relevant to a particular investor in light of his or her personal investment circumstances or to some types of investors subject to special treatment under Israeli law. To the extent that the discussion is based on new tax legislation which has not been subject to judicial or administrative interpretation, we cannot assure that the views expressed in the discussion will be accepted by the appropriate tax authorities or the courts. The discussion is not intended, and should not be construed, as a legal or professional tax advice and is not exhaustive of all possible tax considerations.

#### *General Corporate Taxation in Israel*

Generally, Israeli companies are subject to corporate tax on taxable income, including capital gains, at the rate of 23% for 2019 and 2020 tax years and thereafter. However, the effective tax rate payable by a company that is eligible for tax benefits under the Israeli Law for the Encouragement of Capital Investments -1959, and in particular the 12% rate under the Preferred Technology Enterprise regime (as discussed below), may be considerably less.

We are permitted to measure our Israeli taxable income in U.S. dollars pursuant to regulations published by the Israeli Minister of Finance, which provide the conditions for doing so. We believe that we meet, and will continue to meet, the necessary conditions and as such, we measure our results for tax purposes based on the U.S. dollar/NIS exchange rate on December 31 of the relevant tax year.

#### *Tax Benefits under the Israeli Law for the Encouragement of Capital Investments, 1959, as amended.*

Pursuant to the Israeli Law for Encouragement of Capital Investments-1959 (the “Investments Law”) and its various amendments, under which both the Company and its Israeli subsidiary have been granted “Approved Enterprise” status, we have derived and expect to continue to derive significant tax benefits relating to our “Approved, Privileged, and Preferred Enterprise” programs for which we were eligible up to and including the 2016 tax year, and relating to Preferred Technological Enterprise program for the 2017 and subsequent tax years. To be eligible for these tax benefits, one must continue to meet certain conditions. In the event we are considered as having failed to comply with these conditions, in whole or in part, the eligibility for the benefits may be canceled and we may be required to refund the relevant amount, including interest and inflation adjustments. As of December 31, 2020, we believe that we are in compliance with all the conditions required by the Investments Law.

In December 2016, the Israeli Knesset passed a number of changes to the Investments Law. These changes became retroactively effective beginning January 1, 2017, following promulgation of Regulations by the Finance Ministry in May 2017 to implement the “Nexus Principles” based on OECD guidelines published as part of the Base Erosion and Profit Shifting (BEPS) project. The Regulations provide rules for implementation of the tax regime, that applies to both the Company and its Israeli subsidiary, effective from the 2017 tax year and onwards.

Benefits under the “Preferred Technology Enterprise” regime, effective for 2017 and subsequent tax years, include:

- A reduced 12% corporate tax rate (or 7.5% for entities located in Development Area A) on qualifying income deriving from eligible intellectual property (“Preferred Technology Income”), subject to a number of base conditions being fulfilled, including a minimal amount or ratio of annual R&D expenditure and R&D employees, as well as having at least 25% of annual income derived from export.
- A 12% capital gains tax rate on the sale of a preferred intangible asset to a foreign affiliated enterprise, provided that the asset was initially purchased from a foreign resident at an amount of NIS 200 Million or more.
- A withholding tax rate of 20% for dividends paid from Preferred Technology Income (with an exemption from such withholding tax applying to dividends paid to an Israeli company). Such rate may be reduced to 4% on dividends paid to a foreign resident company, subject to certain conditions regarding percentage of foreign ownership of the distributing entity.

The effective tax rate applying to our Preferred Technology Enterprise is calculated based on the Nexus Principals introduced by the OECD, taking into account eligible and ineligible R&D expenses incurred by us, as prescribed in the Regulations.

Income from sources other than the Preferred Technology Income are taxable at regular corporate tax rates of 23% for 2019, 2020 and subsequent years.

Full details regarding our Preferred and Preferred Technology Enterprises may be found in Note 13(a)(1) of our consolidated financial statements.

#### *Tax Benefits and Grants for Research and Development*

Israeli tax law allows, under specified conditions, a tax deduction for expenditures, including capital expenditures, for the year in which they are incurred. These expenses must relate to scientific research and development projects and must be approved by the relevant Israeli government ministry, determined by the field of research, and the research and development must be conducted for the promotion of the company and carried out by or on behalf of the company seeking such deduction. However, the amount of such deductible expenses shall be reduced by the sum of any funds received through government grants for the financing of such scientific research and development projects. Expenditures not so approved are deductible over a three-year period.

#### *Tax Benefits under the Law for the Encouragement of Industry (Taxes), 1969*

Under the Law for the Encouragement of Industry (Taxes), 1969 (the “Industry Encouragement Law”), Industrial Companies (as defined below) are entitled to the following tax benefits, among others:

- deductions over an eight-year period for purchases of know-how and patents;
- deductions over a three-year period of expenses involved with the issuance and listing of shares on a stock market; and
- the right to elect, under specified conditions, to file a consolidated tax return with other related Israeli Industrial Companies.

Eligibility for benefits under the Industry Encouragement Law is not subject to receipt of prior approval from any governmental authority. Under the Industry Encouragement Law, an “Industrial Company” is defined as a company which is



an Israeli resident for tax purposes, which at least 90% of the income of which, in any tax year, determined in Israeli currency, exclusive of income from government loans, capital gains, interest and dividends, is derived from an “Industrial Enterprise” owned by it.

An “Industrial Enterprise” is defined as an enterprise whose major activity in a given tax year is industrial production activity. We believe that we currently qualify as an Industrial Company within the definition of the Industry Encouragement Law. No assurance can be given that we will continue to qualify as an Industrial Company or that the benefits described above will be available in the future.

### ***Taxation Consequences to Purchasers of our Shares***

#### *Taxation of Holders of Ordinary Shares*

The following discussion refers to the tax consequences to holders of our ordinary shares. However, the same tax treatment would apply to holders of our ADSs.

#### *Capital Gains Tax on Sales of Our Ordinary Shares*

Israeli law generally imposes a capital gains tax on the sale of any capital assets by residents of Israel, as defined for Israeli tax purposes, and on the sale of assets located in Israel, including shares in Israeli companies, by both residents and non-residents of Israel, unless a specific exemption is available or unless a tax treaty between Israel and the shareholder’s country of residence provides otherwise. The Tax Ordinance distinguishes between real gain and inflationary surplus. The inflationary surplus is a portion of the total capital gain equivalent to the increase of the relevant asset’s purchase price attributable to an increase in the Israeli consumer price index, or a foreign currency exchange rate, between the date of purchase and the date of sale. The real gain is the excess of the total capital gain over the inflationary surplus.

#### *Taxation of Israeli Residents*

Israeli individuals are generally subject to a tax rate of 25% on capital gains derived from the sale of shares, whether listed on a stock market or not, unless such shareholder is considered a “significant shareholder” at any time during the 12-month period preceding such sale (i.e., such shareholder holds directly or indirectly, including jointly with others, at least 10% of any means of control in the company), in which case the tax rate will be 30%. Individuals who are subject to tax in Israel are also subject to an additional tax at a rate of 3% on annual taxable income exceeding a certain threshold (NIS 651,600 for 2020, linked to the annual change in the Israeli Consumer Price Index). For this purpose taxable income will include taxable capital gains from the sale of our shares and taxable income from dividend distributions.

Israeli companies are subject to the corporate tax rate on capital gains derived from the sale of listed shares.

Different tax rates may apply to dealers in securities and shareholders who acquired their shares prior to an initial public offering.

#### *Taxation of Non-Israeli Residents*

Both individual and corporate non-Israeli residents are generally exempt from Israeli capital gains tax on any gains derived from the sale of shares publicly traded on the TASE provided such gains did not derive from a permanent establishment of such shareholders in Israel. Non-Israeli residents are also exempt from Israeli capital gains tax on any gains derived from the sale of shares of Israeli companies publicly traded on a recognized stock market outside of Israel, provided such shareholders did not acquire their shares prior to the issuer’s initial public offering and that the gains did not derive from a permanent establishment of such shareholders in Israel. However, non-Israeli corporations will not be entitled to such exemption if Israeli residents (i) have a controlling interest of more than 25% in such non-Israeli corporation; or (ii) are the beneficiaries of or are entitled to 25% or more of the revenues or profits of such non-Israeli corporation, whether directly or indirectly.

In addition, the sale, exchange or disposition of our ordinary shares by a U.S. resident individual or corporate shareholder (for purposes of the U.S.-Israel Tax Treaty), and who holds ordinary shares as a capital asset, is also exempt from Israeli capital gains tax under the U.S.-Israel Tax Treaty unless either (i) the U.S. resident shareholder holds, directly or indirectly, shares representing 10% or more of our voting power during any part of the 12-month period preceding such sale; (ii) the capital gains arising from such sale are attributable to a permanent establishment of the shareholder located in Israel;

or (iii) such U.S. resident shareholder is an individual and was present in Israel for 183 days or more during the relevant taxable year. If the above conditions are not met, the U.S. resident would be subject to Israeli tax, to the extent applicable. However, under the U.S.-Israel Tax Treaty, the gain would be treated as foreign source income for United States foreign tax credit purposes and such U.S. resident would be permitted to claim a credit for such taxes against the United States federal income tax imposed on such sale, exchange or disposition, subject to the limitations under the United States federal income tax laws applicable to foreign tax credits.

#### *Taxation of Dividends Paid on our Ordinary Shares*

##### *Taxation of Israeli Residents*

Israeli resident individuals are generally subject to Israeli income tax on the receipt of dividends paid on our ordinary shares, other than bonus shares (share dividends) or stock dividends. The tax rate applicable to such dividends is 25% or 30% for a shareholder that is considered a significant shareholder at any time during the 12-month period preceding such distribution. Dividends paid out of profits sourced from ordinary income are subject to withholding tax at the rate of 25%. Dividends paid from income derived from our Approved and Privileged Enterprises are subject to withholding tax at the rate of 15%. Dividends paid as of January 1, 2014 from income derived from our Preferred Enterprise and Preferred Technology Enterprise will be subject to withholding tax at the rate of 20%. We cannot assure that we will designate the profits that are being distributed in a way that will reduce shareholders' tax liability. For information with respect to the applicability of Income Surtax on distribution of dividends, please see "Capital Gains Tax on Sales of Our Ordinary Shares" and "Taxation of Israeli Residents" above in this Item 10.

Dividend distributions to Israeli resident corporations are generally not subject to a withholding tax.

##### *Taxation of Non-Israeli Residents*

Non-residents of Israel, both companies and individuals, are generally subject to Israeli income tax on the receipt of dividends paid on our ordinary shares, at the aforementioned rates applicable to Israeli residents, which tax will be withheld at source, unless a different rate is provided in a treaty between Israel and the shareholder's country of residence.

Under the U.S.-Israel Treaty, the maximum Israeli withholding tax on dividends paid by us is 25%. The U.S.-Israel Tax Treaty further provides for a 12.5% Israeli dividend withholding tax rate on dividends paid by an Israeli company to a U.S. corporation owning at least 10% or more of such Israeli company's issued voting power for, in general, the part of the tax year which precedes the date of payment of the dividend and the entire preceding tax year. The lower 12.5% rate applies only to dividends paid from regular income (and not derived from an Approved, Privileged or Preferred Enterprise) in the applicable period and does not apply if the company has more than 25% of its gross income derived from certain types of passive income (if the conditions mentioned above are met, dividends from income of an Approved, Privileged or Preferred Enterprise are subject to a 15% withholding tax rate under the U.S.-Israel Tax Treaty). Residents of the United States generally will have withholding tax in Israel deducted at source. They may be entitled to a credit or deduction for United States federal income tax purposes in the amount of the taxes withheld, subject to detailed rules contained in United States tax legislation.

An individual or corporate non-resident of Israel who has dividend income derived from or accrued in Israel, from which tax was withheld at source, is generally exempt from the duty to file tax returns in Israel with respect to such income, provided such income was not derived from a business conducted in Israel by the taxpayer.

#### ***U.S. Federal Income Tax Considerations***

The following is a summary of the material U.S. Federal income tax consequences that apply to U.S. holders (defined below) who hold ADSs as capital assets for tax purposes. This summary is based on the U.S. Internal Revenue Code of 1986, as amended (the "Code"), existing final, temporary and proposed regulations thereunder, judicial decisions and published positions of the Internal Revenue Service and the U.S.-Israel income tax treaty in effect as of the date of this annual report, all of which are subject to change at any time (including changes in interpretation), possibly with retroactive effect. On December 22, 2017, the United States enacted the U.S. Tax Reform which alters significantly the U.S. Federal income tax system, generally beginning in 2018. Given the complexity of this new law, U.S. holders should consult their own tax advisors regarding its potential impact on the U.S. Federal income tax consequences to them in light of their particular circumstances.

This summary is also based in part on representations by JPMorgan Chase Bank, N.A., the depository for our ADSs, and assumes that each obligation under the Deposit Agreement between us and JPMorgan Chase Bank, N.A. and any related agreement will be performed in accordance with its terms.

This summary does not address all U.S. Federal income tax matters that may be relevant to a particular prospective holder or all tax considerations that may be relevant with respect to an investment in ADSs.

This summary does not address tax considerations applicable to a holder of an ADS that may be subject to special tax rules including, without limitation, the following:

- dealers or traders in securities, currencies or notional principal contracts;
- financial institutions;
- insurance companies;
- real estate investment trusts;
- banks;
- investors subject to the alternative minimum tax;
- tax-exempt organizations;
- regulated investment companies;
- investors that actually or constructively own 10 percent or more of our voting shares;
- investors that will hold the ADSs as part of a hedging or conversion transaction or as a position in a straddle or a part of a synthetic security or other integrated transaction for U.S. Federal income tax purposes;
- investors that are treated as partnerships or other pass-through entities for U.S. Federal income tax purposes and persons who hold the ADSs through partnerships or other pass-through entities;
- investors whose functional currency is not the U.S. dollar; and
- expatriates or former long-term residents of the United States.

This summary does not address the effect of any U.S. Federal taxation other than U.S. Federal income taxation. In addition, this summary does not include any discussion of state, local or foreign taxation or the indirect effects on the holders of equity interests in a holder of an ADS.

**You are urged to consult your own tax advisor regarding the foreign and U.S. Federal, state and local and other tax consequences of an investment in ADSs.**

For purposes of this summary, a “U.S. holder” is a beneficial owner of ADSs that is, for U.S. Federal income tax purposes:

- an individual who is a citizen or a resident of the United States;
- a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or any political subdivision thereof;
- an estate whose income is subject to U.S. Federal income tax regardless of its source; or

- a trust if:
  - (a) a court within the United States is able to exercise primary supervision over administration of the trust; and
  - (b) one or more United States persons have the authority to control all substantial decisions of the trust.

If an entity that is classified as a partnership for U.S. federal tax purposes holds ADSs, the U.S. federal income tax treatment of its partners will generally depend upon the status of the partners and the activities of the partnership. Entities that are classified as partnerships for U.S. federal tax purposes and persons holding ADSs through such entities should consult their own tax advisors.

In general, if you hold ADSs, you will be treated as the holder of the underlying shares represented by those ADSs for U.S. Federal income tax purposes. Accordingly, no gain or loss will be recognized if you exchange ADSs for the underlying shares represented by those ADSs.

### *U.S. Taxation of ADSs*

#### *Distributions*

Subject to the discussion under “Passive Foreign Investment Companies” below, the gross amount of any distribution, including the amount of any Israeli taxes withheld from these distributions (see “Israeli Tax Considerations”), actually or constructively received by a U.S. holder with respect to ADSs will be taxable to the U.S. holder as a dividend to the extent of our current and accumulated earnings and profits as determined under U.S. Federal income tax principles. Distributions in excess of earnings and profits will be non-taxable to the U.S. holder to the extent of, and will be applied against and reduce, the U.S. holder’s adjusted tax basis in the ADSs. Distributions in excess of earnings and profits and such adjusted tax basis will generally be taxable to the U.S. holder as a capital gain from the sale or exchange of property. We do not maintain calculations of our earnings and profits under U.S. Federal income tax principles. If we do not report to a U.S. holder the portion of a distribution that exceeds earnings and profits, the distribution will generally be taxable as a dividend even if that distribution would otherwise be treated as a non-taxable return of capital or as a capital gain under the rules described above. The amount of any distribution of property other than cash will be the fair market value of that property on the date of distribution. The U.S. holder will not, except as provided by Sections 245 and 245A of the Code, be eligible for any dividends received deduction in respect of the dividend otherwise allowable to corporations.

Under the Code, certain dividends received by non-corporate U.S. holders will be subject to a maximum income tax rate of 20%. This reduced income tax rate is only applicable to dividends paid by a “qualified foreign corporation” that is not a “passive foreign investment company” and only with respect to shares held by a qualified U.S. holder (i.e., a non-corporate holder) for a minimum holding period (generally 61 days during the 121-day period beginning 60 days before the ex-dividend date). We should be considered a qualified foreign corporation because (i) we are eligible for the benefits of a comprehensive tax treaty between Israel and the U.S., which includes an exchange of information program; and (ii) the ADSs are readily tradable on an established securities market in the U.S. In addition, based on our current business plans, we do not expect to be classified as a “passive foreign investment company” (see “Passive Foreign Investment Companies” below). Accordingly, dividends paid by us to individual U.S. holders on shares held for the minimum holding period should be eligible for the reduced income tax rate. In addition to the income tax on dividends discussed above, certain non-corporate U.S. holders will also be subject to the 3.8% Medicare tax on dividends as discussed below under “Medicare Tax on Unearned Income”.

The amount of any distribution paid in a currency other than U.S. dollars (a “foreign currency”) including the amount of any withholding tax thereon, will be included in the gross income of a U.S. holder in an amount equal to the U.S. dollar value of the foreign currencies calculated by reference to the exchange rate in effect on the date of receipt, regardless of whether the foreign currencies are converted into U.S. dollars. If the foreign currencies are converted into U.S. dollars on the date of receipt, a U.S. holder generally should not be required to recognize foreign currency gain or loss in respect of the dividend. If the foreign currencies received in the distribution are not converted into U.S. dollars on the date of receipt, a U.S. holder will have a basis in the foreign currencies equal to its U.S. dollar value on the date of receipt. Any gain or loss on a subsequent conversion or other disposition of the foreign currencies will be treated as ordinary income or loss.

Generally, dividends received by a U.S. holder with respect to ADSs will be treated as foreign source income for the purposes of calculating that holder's foreign tax credit limitation. Subject to certain conditions and limitations, any Israeli taxes withheld on dividends at the rate provided by the U.S.-Israel tax treaty may be deducted from taxable income or credited against a U.S. holder's U.S. Federal income tax liability. The limitation on foreign taxes eligible for the U.S. foreign tax credit is calculated separately with respect to various categories of income, including "passive" income and "general" income. The rules relating to foreign tax credits and the timing thereof are complex. U.S. holders should consult their own tax advisors regarding the availability of a foreign tax credit under their particular situation.

#### *Sale or Other Disposition of ADSs*

If a U.S. holder sells or otherwise disposes of its ADSs, gain or loss will be recognized for U.S. Federal income tax purposes in an amount equal to the difference between the amount realized on the sale or other disposition and such holder's adjusted tax basis in the ADSs. Subject to the discussion below under the heading "Passive Foreign Investment Companies," such gain or loss generally will be a capital gain or loss and will be a long-term capital gain or loss if the holder had held the ADSs for more than one year at the time of the sale or other disposition. Long-term capital gains realized by individual U.S. holders generally are subject to a lower marginal U.S. Federal income tax rate (currently up to 20%) than the marginal tax rate on ordinary income. In addition to the income tax on gains discussed above, certain non-corporate U.S. holders will also be subject to the 3.8% Medicare tax on net gains as discussed below under "Medicare Tax on Unearned Income". Under most circumstances, any gain that a holder recognizes on the sale or other disposition of ADSs will be U.S. sourced for purposes of the foreign tax credit limitation and any recognized losses will be allocated against U.S. source income.

If a U.S. holder receives foreign currency upon a sale or exchange of ADSs, gain or loss, if any, recognized on the subsequent sale, conversion or disposition of such foreign currency will be ordinary income or loss, and will generally be income or loss from sources within the United States for foreign tax credit limitation purposes. However, if such foreign currency is converted into U.S. dollars on the date received by the U.S. holder, the U.S. holder generally should not be required to recognize any gain or loss on such conversion.

A U.S. holder who holds shares through an Israeli stockbroker or other Israeli intermediary may be subject to Israeli withholding tax on any capital gain recognized if the U.S. holder does not obtain approval of an exemption from the Israeli Tax Authorities or claim any allowable refunds or reductions. U.S. holders are advised that any Israeli tax paid under circumstances in which an exemption from (or a refund of or a reduction in) such tax was available will not give rise to a deduction or credit for foreign taxes paid for U.S. federal income tax purposes. If applicable, U.S. holders are advised to consult their Israeli stockbroker or intermediary regarding the procedures for obtaining an exemption or reduction.

#### *Medicare Tax on Unearned Income*

Certain U.S. holders that are individuals, estates or trusts are required to pay an additional 3.8% tax on all or a portion of their "net investment income," which includes dividends and net gains from the sale or other dispositions of ADSs (other than ADSs held in a trade or business).

#### *Passive Foreign Investment Companies*

For U.S. Federal income tax purposes, we will be considered a passive foreign investment company ("PFIC") for any taxable year in which either 75% or more of our gross income is *passive* income, or at least 50% of the average value of all of our assets for the taxable year produce or are held for the production of passive income. For this purpose, passive income includes dividend, interest, royalty, rent, annuity and the excess of gain over losses from the disposition of assets which produce passive income. If we were determined to be a PFIC for U.S. Federal income tax purposes, highly complex rules would apply to U.S. holders owning ADSs.

Based on our estimated gross income, the average value of our gross assets and the nature of our business, we do not believe that we will be classified as a PFIC in the current taxable year. Our status in any taxable year will depend on our assets and activities in each year and because this is a factual determination made annually at the end of each taxable year, there can be no assurance that we will not be considered a PFIC for any future taxable year. If we were treated as a PFIC in any year during which a U.S. holder owns ADSs, certain adverse tax consequences could apply. Given our current business plans, however, we do not expect that we will be classified as a PFIC in future years.

**You are urged to consult your own tax advisor regarding the possibility of us being classified as a PFIC and the potential tax consequences arising from the ownership and disposition (directly or indirectly) of an interest in a PFIC.**

### **Backup Withholding and Information Reporting**

Payments of dividends with respect to ADSs and the proceeds from the sale, retirement, or other disposition of ADSs made by a U.S. paying agent or other U.S. intermediary will be reported to the IRS and to the U.S. holder as may be required under applicable U.S. Treasury regulations. We, or an agent, a broker, or any paying agent, as the case may be, may be required to withhold tax (backup withholding), currently at the rate of 24%, if a non-corporate U.S. holder that is not otherwise exempt fails to provide an accurate taxpayer identification number and comply with other IRS requirements concerning information reporting. Certain U.S. holders (including, among others, corporations and tax-exempt organizations) are not subject to backup withholding. Any amount of backup withholding withheld may be used as a credit against your U.S. Federal income tax liability provided that the required information is timely furnished to the IRS. U.S. holders should consult their tax advisors as to their qualification for exemption from backup withholding and the procedure for obtaining an exemption.

### **Foreign Asset Reporting**

Certain U.S. Holders who are specified individuals or specified domestic entities are required to report information relating to an interest in our ADSs on IRS Form 8938 (Statement of Specified Foreign Financial Assets), subject to certain exceptions (including an exception for shares held in accounts maintained by financial institutions). U.S. Holders are encouraged to consult their tax advisors regarding their information reporting obligations, if any, with respect to their ownership and disposition of our ADSs.

### **Documents on Display**

We are subject to certain of the information reporting requirements of the Securities and Exchange Act of 1934, as amended. As a foreign private issuer we are exempt from the rules and regulations under the Securities Exchange Act prescribing the furnishing and content of proxy statements, and our officers, directors and principal shareholders are exempt from the reporting and “short-swing” profit recovery provisions contained in Section 16 of the Securities Exchange Act, with respect to their purchase and sale of our shares. In addition, we are not required to file reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Securities Exchange Act. NASDAQ rules generally require that companies send an annual report to shareholders prior to the annual general meeting, however we rely upon an exception under the NASDAQ rules and follow the generally accepted business practice for companies in Israel. Specifically, we file annual reports on Form 20-F, which contain financial statements audited by an independent accounting firm, electronically with the SEC and post a copy on our website. We also furnish to the SEC quarterly reports on Form 6-K containing unaudited financial information after the end of each of the first three quarters.

The SEC maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC, and our SEC reports can be viewed or downloaded there. The address of this web site is <http://www.sec.gov>. In addition, information that we furnish or file with the SEC, including annual reports on Form 20-F, current reports on Form 6-K, proxy and information statements and any amendments to, or exhibits included in, those reports are available to be viewed or download, free of charge, on our website at <http://www.nice.com> as soon as reasonably practicable after such materials are filed or furnished with the SEC. Information contained, or that can be accessed through, our website does not constitute a part of this annual report and is not incorporated by reference herein, and we have included our website address in this annual report solely for informational purposes.

### **Item 11. Quantitative and Qualitative Disclosures About Market Risk.**

#### ***General***

Market risks relating to our operations result primarily from weak economic conditions in the markets in which we sell our products and changes in interest and exchange rates. To manage the volatility related to the latter exposure, we may enter into various derivative transactions. Our objective is to reduce, where it is deemed appropriate to do so, fluctuations in earnings and cash flows associated with changes in currency exchange rates. It is our policy and practice to use derivative

financial instruments only to manage such exposures. We do not use financial instruments for trading purposes and we are not a party to any leveraged derivative.

### **Foreign Currency Risk**

We conduct our business primarily in U.S. dollars but also in the currencies of Israel, the UK, the EU and India as well as other currencies. Thus, we are exposed to foreign exchange fluctuations, primarily in NIS, GBP, EUR and INR. We monitor foreign currency exposure and from time to time we may use various instruments to preserve the value of sale transactions and commitments, however, this cannot assure us protection against risks of currency fluctuations. For more information regarding foreign currency related risks, please refer to Item 3, “Key Information—General Risks Relating to Our Business” of this annual report. We use currency forward contracts and option contracts in order to protect against the increase in value of forecasted non-dollar currency cash flows and to hedge future anticipated payments.

As of December 31, 2020, we had outstanding currency option and forward contracts to hedge payroll, facilities expenses and lease obligations, denominated in NIS, INR and PHP, in the total amount of approximately \$94 million. The fair value of those contracts was approximately \$5.83 million. These transactions were for a period of up to one year

The following table details the balance sheet exposure (i.e., the difference between assets and liabilities) in our main foreign currencies, as of December 31, 2020, against the relevant functional currency.

	<b>Functional currencies</b>					
	(In U.S. dollars in millions)					
	USD	GBP	CAD	MXN	AUD	SGD
Foreign currencies						
USD	\$ —	\$ 5	\$ 1	\$ 5	\$ 2	\$ (1)
GBP	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
EUR	\$ 10	\$ 10	\$ —	\$ —	\$ —	\$ —
CAD	\$ 10	\$ 1	\$ —	\$ —	\$ —	\$ —
AUD	\$ 4	\$ —	\$ —	\$ —	\$ —	\$ —
MXN	\$ 8	\$ —	\$ —	\$ —	\$ —	\$ —
CHF	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
JPY	\$ 2	\$ —	\$ —	\$ —	\$ —	\$ —
INR	\$ (13)	\$ —	\$ —	\$ —	\$ —	\$ —
SGD	\$ (4)	\$ —	\$ —	\$ —	\$ —	\$ —
HKD	\$ (3)	\$ —	\$ —	\$ —	\$ —	\$ —
ILS	\$ (9)	\$ —	\$ —	\$ —	\$ —	\$ —
PHP	\$ (4)	\$ —	\$ —	\$ —	\$ —	\$ —
BRL	\$ 2	\$ —	\$ —	\$ —	\$ —	\$ —
Other currencies	\$ (1)	\$ —	\$ —	\$ —	\$ —	\$ —

The table below presents the fair value of firmly committed transactions for lease obligations denominated in currencies other than the functional currency:

	(In U.S. dollars in millions)		
	New Israeli Shekel	Other currencies	Total
Less than 1 year	\$ 7,510	\$ 2,150	\$ 9,660
1-3 years	\$ 5,810	\$ 4,290	\$ 10,100
3-5 years	\$ —	\$ 4,030	\$ 4,030
Over 5 years	\$ —	\$ 3,880	\$ 3,880
Total	\$ 13,320	\$ 14,350	\$ 27,670

### Interest Rate Risk

We are subject to interest rate risk on our investments and on our borrowings.

In November 2016, we completed the acquisition of inContact and utilized \$475 million in debt financing with a variable interest rate toward payment of the consideration in the transaction.

On January 18, 2017, we issued \$287.5 million aggregate principal amount of 1.25% Exchangeable Senior Notes due 2024.

On August 24, 2020, we issued \$460 million aggregate principal amount of 0% Exchangeable Senior Notes due 2025 and on November 30, 2020, we used the proceeds from these notes to repay the remaining \$215 million principal amount of our term debt and to terminate the term loan facility.

Our outstanding debt obligations, the corresponding interest rates, currency and repayment schedules as of December 31, 2020, are set forth in the table below in U.S. dollar equivalent terms.

Currency	Total amount	Interest rate	2020	2021	2022	2023	2024	2025 & thereafter
(In millions)								
<b>Fixed Rate:</b>								
USD	\$ 747.5	0%-1.25%					\$ 287.5	\$ 460.0
Total:	<u>\$ 747.5</u>						<u>\$ 287.5</u>	<u>\$ 460.0</u>
Debt issuance costs, net of amortization	<u>(10.4)</u>							
Unamortized discount	<u>(55.9)</u>							
Total:	\$ 681.2							

Our investments are exposed to market risk due to fluctuations in interest rates, which may affect our interest income and the fair market value of our marketable securities portfolio.

Our marketable securities portfolio consists of investment-grade corporate debentures, U.S. Government agencies and U.S. treasuries. As of December 31, 2020, 82.4% of our portfolio was in such securities and the remainder was in dollar deposits.

We invest in dollar deposits with U.S. banks, European banks, Israeli banks and money market funds. As of December 31, 2020, 17.6% of our portfolio was in such deposits. Since these investments are for short periods, interest income is sensitive to changes in interest rates.



The weighted average duration of the securities portfolio, as of December 31, 2020, is 2.13 years. The securities in our marketable securities portfolio are rated generally as A+ according to Standard and Poor’s rating or A1, according to Moody’s rating. Securities representing 2.9% of the marketable securities portfolio are rated as AAA; securities representing 21.4% of the marketable securities portfolio are rated as AA; securities representing 67.3% of the marketable securities portfolio are rated as A; securities representing 7.0% of the marketable securities portfolio are rated as BBB+ and securities representing 1.4 % of the marketable securities portfolio are rated as BBB- and BB- after being downgraded during the last year.

The table below presents the fair value of marketable securities which are subject to risk of changes in interest rate, segregated by maturity dates:

	Amortized Cost				Estimated fair value			
	Up to 1 year	1-3 years	4-7 years	Total	Up to 1 year	1-3 years	4-7 years	Total
Corporate debentures	132.6	631.4	209.0	973.0	133.5	640.7	213.5	987.7
U.S. treasuries	2.9	14.7	—	17.6	2.9	15.1	—	18.0
U.S. government agencies	—	6.5	—	6.5	—	6.5	—	6.5
Total	135.5	652.6	209.0	997.2	136.4	662.3	213.5	1,012.3

- In millions

Other risks and uncertainties that could affect actual results and outcomes are described in Item 3, “Key Information – Risk Factors” in this annual report.

## **Item 12. Description of Securities Other than Equity Securities.**

### *American Depositary Shares and Receipts*

Set forth below is a summary of certain provisions in relation to charges and other payments under the Deposit Agreement, as amended, among NICE, JPMorgan Chase Bank, N.A. as depositary (the “Depositary”), and the owners and holders from time to time of ADRs issued thereunder (the “Deposit Agreement”). A summary of rights of holders and additional terms contained in the Deposit Agreement has been filed as Exhibit 2.4 to this Annual Report. These summaries are not complete and are qualified in their entirety by the Deposit Agreement, a form of which has been filed as Exhibit 1 to the Registration Statement on Form F-6 (Registration No. 333-203623) filed with the SEC on April 24, 2015.

### *Charges of the Depositary*

The Depositary may charge each person to whom ADSs are issued, including, without limitation, issuances against deposits of shares, issuances in respect of share distributions, rights and other distributions, issuances pursuant to a stock dividend or stock split declared by us or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or deposited securities, and each person surrendering ADSs for withdrawal of deposited securities or whose ADRs are cancelled or reduced for any other reason, \$0.05 for each ADS issued, delivered, reduced, cancelled or surrendered, as the case may be. The depositary may sell (by public or private sale) sufficient securities and property received in respect of a share distribution, rights or other distribution prior to such deposit to pay such charge.

The following additional charges shall be incurred by the ADR holders, by any party depositing or withdrawing shares or by any party surrendering ADSs or to whom ADSs are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by us or an exchange of stock regarding the ADSs or the deposited securities or a distribution of ADSs), whichever is applicable:

- a fee of \$1.50 per ADR for transfers of certificated or direct registration ADRs;
- a fee of up to \$0.05 per ADS for any cash distribution made pursuant to the deposit agreement;
- a fee of up to \$0.05 per ADS per calendar year (or portion thereof) for services performed by the depositary in administering the ADRs (which fee may be charged on a periodic basis during each calendar year and

shall be assessed against holders of ADRs as of the record date or record dates set by the depositary during each calendar year and shall be payable in the manner described in the next succeeding provision);

- a fee for the reimbursement of such fees, charges and expenses as are incurred by the depositary or any of its agents (including, without limitation, the custodian and expenses incurred on behalf of holders in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in connection with the servicing of the shares or other deposited securities, the sale of securities (including, without limitation, deposited securities), the delivery of deposited securities or otherwise in connection with the depositary's or its custodian's compliance with applicable law, rule or regulation (which fees and charges shall be assessed on a proportionate basis against holders as of the record date or dates set by the depositary and shall be payable at the sole discretion of the depositary by billing such holders or by deducting such charge from one or more cash dividends or other cash distributions);
- stock transfer or other taxes and other governmental charges;
- cable, telex and facsimile transmission and delivery charges incurred at the request of an ADR holder in connection with the deposit or delivery of shares;
- transfer or registration fees for the registration of transfer of deposited securities on any applicable register in connection with the deposit or withdrawal of deposited securities;
- in connection with the conversion of foreign currency into U.S. dollars, the fees, expenses and other charges charged by JPMorgan Chase Bank, N.A. or its agent (which may be a division, branch or affiliate) so appointed in connection with such conversion; and
- fees of any division, branch or affiliate of the depositary utilized by the depositary to direct, manage or execute any public or private sale of securities under the deposit agreement.

The depositary may generally refuse to provide services until it is reimbursed applicable amounts, including stock transfer or other taxes and other governmental charges, and is paid its fees for applicable services.

The fees and charges an ADR holder may be required to pay may vary over time and may be changed by us and by the depositary. Our ADR holders will receive prior notice of the increase in any such fees and charges.

We will pay all other charges and expenses of the depositary and any agent of the depositary (except the custodian) pursuant to agreements from time to time between us and the depositary. The charges described above may be amended from time to time by agreement between us and the depositary.

#### *Fees paid by the Depositary*

Our depositary has agreed to reimburse us for certain expenses we incur that are related to establishment and maintenance of the ADR program upon such terms and conditions as we and the depositary may agree from time to time. The depositary may make available to us a set amount or a portion of the depositary fees charged in respect of the ADR program or otherwise upon such terms and conditions as we and the depositary may agree from time to time.

During 2020, we received a payment in the amount of approximately \$1 million from the depositary as reimbursement for expenses we incurred in 2020 in relation to the maintenance and administration of the ADR program.

## PART II

### **Item 13. Defaults, Dividend Arrearages and Delinquencies.**

None.

### **Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds.**

None.

### **Item 15. Controls and Procedures.**

#### *Disclosure Controls and Procedures*

An evaluation was performed under the supervision and with the participation of NICE's management, including its Chief Executive Officer and Chief Financial Officer, of the effectiveness of NICE's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer (principal executive officer) and Chief Financial Officer (principal financial officer) concluded that NICE's disclosure controls and procedures were effective as of such date.

#### *Management's Annual Report on Internal Control over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as such term is defined in Rule 15d-15(f) under the Securities Exchange Act. Our internal control over our financial reporting system was designed 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.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements and even when determined to be effective can only provide reasonable assurance with respect to financial statements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2020. Our management based its assessment on criteria established in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on this assessment, our management has concluded that, as of December 31, 2020, our internal control over financial reporting is effective.

#### *Attestation Report of the Independent Registered Public Accounting Firm*

Our independent registered public accounting firm, Kost, Forer, Gabbay & Kasierer, a member of EY Global independently assessed the effectiveness of our internal control over financial reporting and has issued an attestation report, which is included under Item 18 on page F-4 of this annual report.

#### *Changes in Internal Control Over Financial Reporting*

There were no changes in our internal control over financial reporting that occurred during the period covered by this annual report that have materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

### **Item 16A. Audit Committee Financial Expert.**

Our Board of Directors has determined that each of Dan Falk and Yocheved Dvir meets the definition of an audit committee financial expert, as defined in Item 407 of Regulation S-K and is independent under the applicable regulations.

**Item 16B. Code of Ethics.**

We have adopted a Code of Ethics and Business Conduct (the “Code of Ethics”) that applies to our principal executive and financial officers, and that also applies to all of our employees. If we make any substantive amendments to the Code of Ethics or grant any waiver from a provision of this code to our chief executive officer, principal financial officer or corporate controller, we will either disclose the nature of such amendment or waiver on our website or in our annual report on Form 20-F.

The Code of Ethics, among other things, summarizes the principles of our Anti-Bribery and Corruption Policy. We have zero tolerance for bribery and corruption and are committed to complying with applicable laws and regulations relating to the fight against bribery and corruption.

The Code of Ethics, and our separate Anti-Bribery and Corruption Policy, is available on our website: www.nice.com. Written copies are available upon request without charge.

**Item 16C. Principal Accountant Fees and Services.****Fees Paid to Independent Auditors**

Fees billed or expected to be billed by Kost, Forer, Gabbay & Kasierer, a member of EY Global, and other members of EY Global for professional services for each of the last two fiscal years were as follows:

<b><u>Services Rendered</u></b>	<b><u>2019 Fees</u></b>	<b><u>2020 Fees</u></b>
Audit (1)	\$ 862	\$ 968
Audit-related (2)	\$ 75	\$ 247
Tax (3)	\$ 465	\$ 520
Total	\$ 1,402	\$ 1,735

- (1) Audit fees refer to audit services for each of the years shown in this table which include fees associated with the annual audit for each of 2019 and 2020 (including an audit in each such year in accordance with section 404 of the Sarbanes-Oxley Act), certain procedures regarding our quarterly financial results submitted on Form 6-K, consultations concerning financial accounting and various accounting issues and performance of local statutory audits.
- (2) Audit-related fees relate to assurance and associated services that traditionally are performed by the independent auditor, which include due diligence investigations and audit services related to other statutory or regulatory filings, mainly those related to mergers and acquisitions.
- (3) Tax fees refer to professional services rendered by our auditors, which include tax compliance, tax advice on actual or contemplated transactions, tax consulting associated with transfer pricing and global mobility of employees.

**Policies and Procedures**

Our audit committee has adopted a policy and procedures for the pre-approval of audit and non-audit services rendered by our external auditors, Kost, Forer, Gabbay & Kasierer, a member of EY Global. The policy, which is designed to ensure that such services do not impair the independence of our auditors, requires pre-approval from the audit committee on an annual basis for the various audit and non-audit services that may be performed by our auditors. If a type of service, that is to be provided by our auditors, has not received such general pre-approval, it will require specific pre-approval by our audit committee. Any proposed services exceeding pre-approved cost levels or budgeted amounts will also require specific pre-approval by our audit committee. The policy prohibits retention of the independent auditors to perform the prohibited non-audit functions defined in Section 201 of the Sarbanes-Oxley Act of 2002 or the rules of the SEC, and also considers whether proposed services are compatible with the independence of the public auditors.

**Item 16D. Exemptions from the Listing Standards for Audit Committees.**

Not applicable.

**Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers.**

During 2020, we repurchased our ordinary shares as described in the table below.

Period	(a) Total number of shares purchased	(b) Average price paid per share	(c) Total number of shares purchased as part of publicly announced plans or programs	(d) Maximum number (or approximately dollar value) of shares that may yet be purchased under the plans or programs
(In dollars, except share amounts)				
January 1 - January 31				63,083,146
February 1 - February 28	55,083	170.49	55,083	253,691,792
March 1 - March 31	90,804	161.25	90,804	239,049,546
April 1 - April 30	24,675	143.06	24,675	235,519,540
May 1 - May 31				235,519,540
June 1 - June 30				235,519,540
July 1 - July 31				235,519,540
August 1 - August 31				235,519,540
September 1 - September 30	13,664	224	13,664	232,453,939
October 1 - October 31	27,722	235	27,722	225,929,011
November 1 - November 30	49,051	228.26	49,051	214,732,630
December 1 - December 31	—	—	—	214,732,630
<b>Total</b>	<b>260,999</b>	<b>185.25</b>	<b>260,999</b>	

On January 10, 2017, we announced that our Board of Directors authorized a program to repurchase up to \$150 million of our issued and outstanding ordinary shares and ADRs. On February 12, 2020, our Board of Directors authorized an additional program to repurchase up to \$200 million of our issued and outstanding ordinary shares and ADRs, that commenced following completion of the prior program from 2017. Repurchases may be made from time to time in the open market or in privately negotiated transactions in accordance with applicable securities laws and regulations. The timing and amount of the repurchase transactions will be determined by management and may depend on a variety of factors including market conditions, alternative investment opportunities and other considerations.

These programs do not obligate us to acquire any particular amount of ordinary shares and ADRs and each program may be modified or discontinued at any time without prior notice.

**Item 16F. Change in Registrant’s Certifying Accountant.**

None.

**Item 16G. Corporate Governance.**

We follow the Israeli Companies Law, the relevant provisions of which are summarized in this annual report, rather than comply with the NASDAQ requirements relating to: (i) the quorum for shareholder meetings (see Item 10, “Additional Information – Memorandum and Articles of Association – Meetings of Shareholders” in this annual report); (ii) shareholder approval with respect to issuance of securities under equity-based compensation plans (see Item 10, “Additional Information – Memorandum and Articles of Association – Approval of Certain Transactions” and “Approval of Office Holder Compensation” in this annual report); and (iii) sending annual reports to shareholders (see Item 10, “Additional Information – Documents on Display” in this annual report).

**Item 16H. Mine Safety Disclosure.**

Not Applicable.

### PART III

**Item 17. Financial Statements.**

Not Applicable.

**Item 18. Financial Statements.**

See pages F-1 through F-57 of this annual report attached hereto.

**Item 19. Exhibits.**

Exhibit No.	Description
<a href="#"><u>1.1</u></a>	<a href="#"><u>Amended and Restated Memorandum of Association, as approved on December 21, 2006 (English translation) (filed as Exhibit 1.1 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on June 13, 2007, and incorporated herein by reference).</u></a>
<a href="#"><u>1.2</u></a>	<a href="#"><u>Amended and Restated Articles of Association, as amended on December 21, 2016 (filed as Exhibit 1.2 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on April 21, 2017, and incorporated herein by reference).</u></a>
2.1	Form of Share Certificate (filed as Exhibit 4.1 to Amendment No. 1 to NICE Ltd.'s Registration Statement on Form F-1 (Registration No. 333-99640) filed with the SEC on December 29, 1995, and incorporated herein by reference).
<a href="#"><u>2.2</u></a>	<a href="#"><u>Form of Deposit Agreement including Form of ADR Certificate (filed as Exhibit 1 to NICE Ltd.'s Registration Statement on Form F-6 (Registration No. 333-203623) filed with the SEC on April 24, 2015, and incorporated herein by reference).</u></a>
<a href="#"><u>2.3</u></a>	<a href="#"><u>Description of Securities (filed as Exhibit 2.3 to NICE's Annual Report on Form 20-F filed with the SEC on April 6, 2020, and incorporated herein by reference).</u></a>
<a href="#"><u>4.1</u></a>	<a href="#"><u>NICE Ltd. 2016 Share Incentive Plan (filed as Exhibit 4.3 to NICE's Annual Report on Form 20-F filed with the SEC on March 23, 2016, and incorporated herein by reference).</u></a>
<a href="#"><u>4.2</u></a>	<a href="#"><u>NICE Ltd. 2008 Share Incentive Plan, as amended (filed as Exhibit 99.1 to NICE's Immediate Report on Form 6-K filed with the SEC on May 28, 2015, and incorporated herein by reference).</u></a>
<a href="#"><u>4.3</u></a>	<a href="#"><u>e-Glue Software Technologies, Inc. 2004 Stock Option Plan, as amended (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-168100) filed with the SEC on July 14, 2010, and incorporated herein by reference).</u></a>
<a href="#"><u>4.4</u></a>	<a href="#"><u>Fizzback Group (Holdings) Limited Employee Share Option Scheme (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-177510) filed with the SEC on October 26, 2011, and incorporated herein by reference).</u></a>
<a href="#"><u>4.5</u></a>	<a href="#"><u>Merced Systems, Inc. 2001 Stock Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-179408) filed with the SEC on February 7, 2012, and incorporated herein by reference).</u></a>
<a href="#"><u>4.6</u></a>	<a href="#"><u>Merced Systems, Inc. 2011 Stock Plan (filed as Exhibit 4.5 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-179408) filed with the SEC on February 7, 2012, and incorporated herein by reference).</u></a>
<a href="#"><u>4.7</u></a>	<a href="#"><u>NICE Ltd.'s Executives &amp; Directors Compensation Policy (filed as Annex A in Exhibit 99.1 of NICE's Immediate Report on Form 6-K filed with the SEC on June 1, 2015, as amended on September 18, 2019 as set forth in Exhibit 99.1 of NICE's Immediate Report on Form 6-K filed with the SEC on August 8, 2019, and incorporated herein by reference).</u></a>
<a href="#"><u>4.8</u></a>	<a href="#"><u>inContact, Inc. 2008 Equity Incentive Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on November 15, 2016, and incorporated herein by reference).</u></a>
<a href="#"><u>4.9</u></a>	<a href="#"><u>Nexidia Inc. 2005 Stock Incentive Plan (filed as Exhibit 4.4 to NICE-Systems Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on March 23, 2016, and incorporated herein by reference).</u></a>
<a href="#"><u>4.10</u></a>	<a href="#"><u>Mattersight Corporation 1999 Stock Incentive Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-226930) filed with the SEC on August 20, 2018, and incorporated herein by reference).</u></a>

- [4.11](#) [Guardian Analytics, Inc. 2006 Stock Plan \(filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 \(Registration No. 333-249186\), filed with the SEC on October 1, 2020, and incorporated herein by reference\).](#)
  - [4.12](#) [Credit Agreement, dated November 14, 2016 \(filed as Exhibit 4.15 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on April 21, 2017, and incorporated herein by reference\).](#)
  - [4.13](#) [2017 Indenture, dated January 18, 2017 \(filed as Exhibit 4.16 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on April 21, 2017, and incorporated herein by reference\).](#)
  - [4.14](#) [2020 Indenture, dated August 27, 2020.](#)
  - [4.15](#) [inContact Agreement and Plan of Merger, dated May 17, 2016 \(filed as Exhibit 4.17 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on April 21, 2017, and incorporated herein by reference\).](#)
  - [8.1](#) [List of significant subsidiaries.](#)
  - [12.1](#) [Certification by the Chief Executive Officer of NICE Ltd., pursuant to Section 302 of the Sarbanes-Oxley Act 2002.](#)
  - [12.2](#) [Certification by the Chief Financial Officer of NICE Ltd., pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
  - [13.1](#) [Certification by the Chief Executive Officer of NICE Ltd., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
  - [13.2](#) [Certification by the Chief Financial Officer of NICE Ltd., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
  - [15.1](#) [Consent of Kost, Forer, Gabbay & Kasierer, a member of EY Global.](#)
- 101 The following financial information from NICE Ltd.'s Annual Report on Form 20-F for the year ended December 31, 2020, formatted in Inline XBRL ("iXBRL"): (i) Consolidated Balance Sheets at December 31, 2020 and 2019 ; (ii) Consolidated Statements of Income for the years ended December 31, 2020, 2019 and 2018; (iii) Statements of Changes in Shareholders' Equity and Comprehensive Income for the years ended December 31, 2020, 2019 and 2018; (iv) Consolidated Statements of Cash Flows for the years ended December 31, 2020, 2019 and 2018; and (v) Notes to Consolidated Financial Statements.



NICE LTD. AND ITS SUBSIDIARIES  
CONSOLIDATED FINANCIAL STATEMENTS

AS OF DECEMBER 31, 2020

IN U.S. DOLLARS

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## **REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

### **To the Shareholders and the Board of Directors of**

#### **NICE Ltd.**

#### **Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of NICE Ltd. and its subsidiaries (the Company) as of December 31, 2020 and 2019, the related consolidated statements of income, comprehensive income, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2020, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company on December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated March 23, 2021 expressed an unqualified opinion thereon.

#### **Basis for Opinion**

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

## Critical Audit Matters

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

### *Revenue Recognition*

*Description of  
the Matter*

As described in Note 2 to the consolidated financial statements, the Company generates revenues mainly from licensing its software products and services, including cloud-based services. The Company enters into contracts with customers that often include promises to transfer multiple products and services, which are accounted for separately if they are distinct performance obligations. In such contracts, the transaction price is then allocated to the distinct performance obligations on a relative standalone selling price basis and revenue is recognized when control of the distinct performance obligation is transferred. Revenues from cloud-based services, are recognized either ratably over the contract period or based on usage, as applicable.

The accounting for contracts with multiple elements which include a software license requires the company to exercise significant judgment in determining revenue recognition for these contracts and includes (a) identification and determination of whether products and services are considered distinct performance obligations that should be accounted for separately based on the terms and conditions of the relevant agreements (b) determination of stand-alone selling prices for each distinct performance obligation that are not sold separately. For products that are not sold separately, directly observable data is generally not available, which requires the Company to make significant assumptions regarding the stand-alone selling prices of the related performance obligations based on, among others, geographic or regional specific factors and internally approved pricing guidelines (c) the pattern of transferring control (i.e., timing of when

Given these factors, the related audit effort in evaluating management's judgments in determining revenue recognition for these customer contracts was extensive and required a high degree of auditor judgment.

*How We  
Addressed the  
Matter in Our  
Audit*

We obtained an understanding, evaluated the design and tested the operating effectiveness of the Company's process and controls to identify and determine the distinct performance obligations, the relative standalone selling price for each performance obligation and the determination of the timing of revenue recognition.

Our audit procedures included, among others, evaluating the methodology and reasonableness of management's assumptions used for the estimate of stand-alone selling prices on a sample basis for products and services that are not sold separately

For a sample of customers, we (1) obtained and read contract source documents, including master agreements, and other documents that were part of the agreement, (2) tested management's identification of significant terms for completeness, including the identification and determination of distinct performance obligations, (3) tested management's calculations of revenue and the associated timing of revenue recognition, (4) we involved IT professionals with specialized skill and knowledge to assist in testing certain internal controls over the Company's revenue process, including controls over the capture related usage transactional information through the Company's IT systems. On a sample basis, we tested usage and observed that usage attributes such as duration and type of service were captured in the relevant IT systems.

### ***Business Combination***

*Description of the Matter* During 2020, the Company completed its acquisition of Guardian Analytics Inc. for total consideration of \$113.9 million, as described in Note 1 to the consolidated financial statements. The transaction was accounted for as a business combination.

Auditing the Company's accounting for its acquisition of Guardian Analytics Inc. was complex due to the significant estimation required by management in determining the fair value of the technology-related intangible assets and customer relationship intangible assets of \$38.3 million and \$6.7 million, respectively (collectively, "the intangible assets"). The significant estimation was primarily due to the judgmental nature of the inputs to the valuation models used to measure the fair value of these intangible assets, as well as the sensitivity of the respective fair values to the underlying significant assumptions. The Company used the discounted cash flow method of the income approach to measure the fair value of these intangible assets. The significant assumptions used to estimate the fair value of the intangible assets included, among others, discount rates, projected revenue growth rates and profit margins. These significant assumptions are forward-looking and could be affected by future economic and market conditions.

*How We Addressed the Matter in Our Audit* We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over the Company's process for accounting for acquired intangible assets. For example, we tested controls over management's review of the valuation of intangible assets, including the review of the valuation model and significant assumptions used in the valuation.

To test the fair value of these acquired intangible assets, our audit procedures included, among others, evaluating the Company's use of valuation methodologies, evaluating the prospective financial information and testing the completeness and accuracy of underlying data supporting the significant assumptions and estimates. For example, we compared the significant assumptions to current industry, market and economic trends, historical results of the acquired business and to other relevant factors.

We involved our valuation professionals to assist in evaluation of the methodology used by the Company and certain assumptions included in the fair value estimates. For example, our valuation professionals performed independent comparative calculations to estimate the acquired entity discount rate.



### ***Accounting for the Issuance of Convertible Senior Notes***

**Description of  
the Matter**

As described in Note 15 to the consolidated financial statements, in August and September 2020, the Company issued \$460 million of 0% Convertible Senior Notes due 2025 (the "Notes") in a private placement. The nature of the convertible note transaction required management to allocate the total proceeds into liability and equity components, with the equity component representing the difference between the proceeds and the fair value of a similar liability that does not have an associated conversion feature. Management applied significant judgment in estimating the borrowing rate for a comparable non-convertible note that does not have an associated conversion feature, including in determining the Company's synthetic credit rating.

Auditing the Company's valuation of the accounting for convertible notes at issuance involved a high degree of auditor judgment, subjectivity, and effort due to significant management judgment required in determining the estimated borrowing rate of a comparable non-convertible note, which is a significant assumption in determining the fair value of a similar liability that does not have an associated conversion feature.

***How We  
Addressed the  
Matter in Our  
Audit***

We obtained an understanding, evaluated the design and tested the operating effectiveness of internal controls over the valuation of and accounting for the Notes, management's assessment of the assumptions and data underlying the Notes.

Our substantive audit procedures included, among others, analyzing the methodology used by management to determine the fair value of a similar liability that does not have an associated conversion feature, evaluating management's selection of the borrowing rate of a comparable non-convertible note, assessing the reasonableness of the underlying assumptions used to determine the borrowing rate, such as the Company's synthetic credit rating, and performing an independent calculation of the carrying amounts attributable to the liability and equity components. In addition, professionals with specialized skill and knowledge were used to assist in evaluating whether the synthetic rate and borrowing rate of a comparable non-convertible notes used by management were reasonable considering the calculated synthetic rate and the appropriate interest curve. We have also evaluated the Company's disclosures regarding the issuance of the Notes included in Note 15 to the consolidated financial statements

/s/ KOST FORER GABBAY & KASIERER  
A Member of EY Global  
We have served as the Company's auditor since 1995.  
Tel-Aviv, Israel  
March 23, 2021



## **REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

### **To the Shareholders and the Board of Directors of NICE Ltd.**

#### **Opinion on Internal Control over Financial Reporting**

We have audited NICE Ltd.'s and its subsidiaries (the Company) internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2020 and 2019 and the related consolidated statements of income, comprehensive income, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2020, and the related notes and our report dated March 23, 2021 expressed an unqualified opinion thereon.

#### **Basis for Opinion**

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

#### **Definition and Limitations of Internal Control Over Financial Reporting**

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company;



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and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KOST FORER GABBAY & KASIERER  
A Member of EY Global

Tel-Aviv, Israel  
March 23, 2021

**CONSOLIDATED BALANCE SHEETS**

U.S. dollars in thousands (except share and per share data)

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 442,267	\$ 228,323
Short-term investments	1,021,613	210,772
Trade receivables (net of allowance for credit losses of \$ \$10,107 and \$9,815 at December 31, 2020 and 2019, respectively)	303,100	319,622
Prepaid expenses and other current assets	175,340	116,972
<b>Total current assets</b>	<b>1,942,320</b>	<b>875,689</b>
<b>LONG-TERM ASSETS:</b>		
Long-term investments	—	542,389
Prepaid expenses and other long-term assets	153,660	124,034
Property and equipment, net	137,785	141,647
Deferred tax assets	32,735	30,513
Operating lease right-of-use assets	97,162	106,196
Other intangible assets, net	366,003	411,019
Goodwill	1,503,252	1,378,418
<b>Total long-term assets</b>	<b>2,290,597</b>	<b>2,734,216</b>
<b>Total assets</b>	<b>\$ 4,232,917</b>	<b>\$ 3,609,905</b>

The accompanying notes are an integral part of the consolidated financial statements.



**CONSOLIDATED BALANCE SHEETS**

U.S. dollars in thousands (except share and per share data)

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Trade payables	\$ 33,132	\$ 30,376
Deferred revenues and advances from customers	311,851	245,792
Current maturities of operating leases	22,412	21,519
Debt	259,881	251,583
Accrued expenses and other liabilities	417,174	391,685
<b>Total current liabilities</b>	<b>1,044,450</b>	<b>940,955</b>
<b>LONG-TERM LIABILITIES:</b>		
Deferred revenues and advances from customers	36,295	26,045
Accrued severance pay	16,229	14,596
Deferred tax liabilities	32,109	52,509
Debt	421,337	213,313
Operating leases	92,262	103,490
Other long-term liabilities	1,751	1,731
<b>Total long-term liabilities</b>	<b>599,983</b>	<b>411,684</b>
<b>COMMITMENTS AND CONTINGENT LIABILITIES</b>		
<b>SHAREHOLDERS' EQUITY:</b>		
Share capital-		
Ordinary shares of NIS 1 par value:		
Authorized: 125,000,000 shares at December 31, 2020 and 2019; Issued: 74,774,827 and 74,774,827 shares at December 31, 2020 and 2019, respectively; Outstanding: 63,050,434 and 62,398,221 shares at December 31, 2020 and 2019, respectively	18,961	18,961
Additional paid-in capital	1,681,587	1,568,035
Treasury shares at cost – 11,724,393 and 12,376,606 Ordinary shares at December 31, 2020 and 2019, respectively	(574,364)	(554,146)
Accumulated other comprehensive loss	(16,662)	(33,299)
Retained earnings	1,454,388	1,257,715
<b>Total attributable to Nice Ltd's shareholders</b>	<b>2,563,910</b>	<b>2,257,266</b>
Non-controlling interests	24,574	—
<b>Total shareholders' equity</b>	<b>2,588,484</b>	<b>2,257,266</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 4,232,917</b>	<b>\$ 3,609,905</b>

The accompanying notes are an integral part of the consolidated financial statements.

**CONSOLIDATED STATEMENTS OF INCOME**

U.S. dollars in thousands (except share and per share data)

	<b>Year ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
<b>Revenue:</b>			
Cloud	\$ 777,331	\$ 595,748	\$ 461,183
Services	687,532	709,064	719,531
Product	183,153	269,100	263,805
<b>Total revenue</b>	<b>1,648,016</b>	<b>1,573,912</b>	<b>1,444,519</b>
<b>Cost of revenue:</b>			
Cloud	339,985	289,852	236,079
Services	199,803	218,990	229,671
Product	22,164	22,926	31,065
<b>Total cost of revenue</b>	<b>561,952</b>	<b>531,768</b>	<b>496,815</b>
<b>Gross profit</b>	<b>1,086,064</b>	<b>1,042,144</b>	<b>947,704</b>
<b>Operating expenses:</b>			
Research and development, net	218,182	193,718	183,830
Selling and marketing*	445,102	441,687	412,935
General and administrative	180,733	168,022	153,323
<b>Total operating expenses</b>	<b>844,017</b>	<b>803,427</b>	<b>750,088</b>
<b>Operating income</b>	<b>242,047</b>	<b>238,717</b>	<b>197,616</b>
Financial expenses and other, net	4,859	4,444	10,901
<b>Income before taxes on income</b>	<b>237,188</b>	<b>234,273</b>	<b>186,715</b>
Taxes on income	40,842	48,369	27,377
<b>Net income</b>	<b>\$ 196,346</b>	<b>\$ 185,904</b>	<b>\$ 159,338</b>
Less - net loss attributable to non-controlling interests	327	—	—
<b>Net income attributable to Nice Ltd's shareholders</b>	<b>\$ 196,673</b>	<b>\$ 185,904</b>	<b>\$ 159,338</b>
<b>Basic earnings per share</b>	<b>\$ 3.13</b>	<b>\$ 2.99</b>	<b>\$ 2.60</b>
<b>Diluted earnings per share</b>	<b>\$ 2.98</b>	<b>\$ 2.88</b>	<b>\$ 2.52</b>
<b>Weighted average number of shares used in computing:</b>			
<b>Basic earnings per share</b>	<b>62,710</b>	<b>62,120</b>	<b>61,387</b>
<b>Diluted earnings per share</b>	<b>65,956</b>	<b>64,661</b>	<b>63,309</b>

\*Includes reclassification of amortization of acquired intangible assets.

The accompanying notes are an integral part of the consolidated financial statements.

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

U.S. dollars in thousands

	Year ended December 31,		
	2020	2019	2018
Net income	\$ 196,346	\$ 185,904	\$ 159,338
Other comprehensive income (loss), net of tax:			
Change in foreign currency translation adjustment	4,998	2,458	(9,261)
Available-for-sale investments:			
Change in net unrealized gains (losses)	11,249	6,260	(574)
Less - reclassification adjustment for net gains realized and included in net income	(2,095)	(467)	(18)
Net change (net of tax effect of \$(1,246), \$(913) and \$351)	9,154	5,793	(592)
Cash flow hedges:			
Change in unrealized gains (losses)	4,954	5,495	(8,630)
Less - reclassification adjustment for net gains (losses) realized and included in net income	(2,469)	(429)	4,781
Net change (net of tax effect of \$(339), \$(691) and \$370)	2,485	5,066	(3,849)
Total other comprehensive income (loss)	16,637	13,317	(13,702)
Comprehensive income	\$ 212,983	\$ 199,221	\$ 145,636

The accompanying notes are an integral part of the consolidated financial statements.

**STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY**

U.S. dollars in thousands

	Share capital	Additional paid-in capital	Treasury shares	Accumulated other comprehensive loss	Retained earnings	Non-controlling Interest	Total shareholders' equity
Balance as of January 1, 2020	\$ 18,961	\$ 1,568,035	\$ (554,146)	\$ (33,299)	\$ 1,257,715	\$ —	\$ 2,257,266
Stock-based compensation	—	103,464	—	—	—	—	103,464
Issuance of treasury shares under share-based compensation plan (915,710 ordinary shares)	—	(19,266)	28,131	—	—	—	8,865
Treasury shares purchased	—	—	(48,349)	—	—	—	(48,349)
Equity component of convertible notes, net of issuance costs and deferred tax	—	28,816	—	—	—	—	\$ 28,816
Equity awards assumed for acquisitions	—	538	—	—	—	—	\$ 538
Other comprehensive income	—	—	—	16,637	—	—	\$ 16,637
Minority interest related to acquisition	—	—	—	—	—	24,901	\$ 24,901
Net income attributable to Nice Shareholders	—	—	—	—	196,673	—	\$ 196,673
Net loss attributable to non-controlling interests	—	—	—	—	—	(327)	\$ (327)
Balance as of December 31, 2020	\$ 18,961	\$ 1,681,587	\$ (574,364)	\$ (16,662)	\$ 1,454,388	\$ 24,574	\$ 2,588,484

The accompanying notes are an integral part of the consolidated financial statements

**STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY**

U.S. dollars in thousands

	<u>Share capital</u>	<u>Additional paid-in capital</u>	<u>Treasury shares</u>	<u>Accumulated other comprehensive loss</u>	<u>Retained earnings</u>	<u>Total shareholders' equity</u>
Balance as of January 1, 2019	\$ 18,849	\$ 1,499,986	\$ (527,417)	\$ (46,616)	\$ 1,071,811	\$ 2,016,613
Exercise of share options	112	1,907	—	—	—	2,019
Stock-based compensation	—	82,033.00	—	—	—	82,033
Issuance of treasury shares under share-based compensation plan (556,655 ordinary shares)	—	(15,891)	19,300	—	—	3,409
Treasury shares purchased	—	—	(46,029)	—	—	(46,029)
Other comprehensive income	—	—	—	13,317	—	13,317
Net income	—	—	—	—	185,904	185,904
Balance as of December 31, 2019	<u>\$ 18,961</u>	<u>\$ 1,568,035</u>	<u>\$ (554,146)</u>	<u>\$ (33,299)</u>	<u>\$ 1,257,715</u>	<u>\$ 2,257,266</u>

The accompanying notes are an integral part of the consolidated financial statements.

**STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY**

U.S. dollars in thousands

	<u>Share capital</u>	<u>Additional paid-in capital</u>	<u>Treasury shares</u>	<u>Accumulated other comprehensive loss</u>	<u>Retained earnings</u>	<u>Total shareholders' equity</u>
Balance as of January 1, 2018	\$ 18,595	\$ 1,420,813	\$ (507,705)	\$ (32,914)	\$ 850,772	\$ 1,749,561
Effect of adopting ASU 2014-09: "Revenue from Contracts with Customers (ASC 606)"	—	—	—	—	61,701	61,701
Exercise of share options	254	16,143	—	—	—	16,397
Stock-based compensation	—	67,223	—	—	—	67,223
Issuance of treasury shares under share-based compensation plan (203,575 ordinary shares)	—	(4,976)	7,574	—	—	2,598
Treasury shares purchased	—	—	(27,286)	—	—	(27,286)
Other comprehensive loss	—	—	—	(13,702)	—	(13,702)
Equity awards assumed for acquisitions	—	783	—	—	—	783
Net income	—	—	—	—	159,338	159,338
Balance as of December 31, 2018	<u>\$ 18,849</u>	<u>\$ 1,499,986</u>	<u>\$ (527,417)</u>	<u>\$ (46,616)</u>	<u>\$ 1,071,811</u>	<u>\$ 2,016,613</u>

The accompanying notes are an integral part of the consolidated financial statements.

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

U.S. dollars in thousands

	Year ended December 31,		
	2020	2019	2018
<u>Cash flows from operating activities:</u>			
Net income	\$ 196,346	\$ 185,904	\$ 159,338
Adjustments required to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	182,026	173,230	157,142
Stock-based compensation	101,667	80,864	67,223
Accrued severance pay, net	1,323	(1,964)	1,020
Amortization of premium and discount and accrued interest on marketable securities	(633)	(53)	(598)
Deferred taxes, net	(33,241)	(12,208)	(30,172)
Changes in operating assets and liabilities:			
Trade receivables, net	22,245	(29,863)	(72,583)
Prepaid expenses and other current assets	(80,665)	(76,180)	(29,852)
Trade payables	4,094	777	(3,526)
Accrued expenses and other liabilities	14,875	31,730	48,095
Operating lease right-of-use assets, net	18,167	19,104	—
Deferred revenues	63,202	13,810	92,768
Operating lease liabilities	(19,569)	(18,839)	—
Amortization of discount on debt	13,297	9,236	8,670
Other	(2,828)	(1,390)	(916)
Net cash provided by operating activities	<u>480,306</u>	<u>374,158</u>	<u>396,609</u>
<u>Cash flows from investing activities:</u>			
Purchase of property and equipment	(24,186)	(27,293)	(31,442)
Purchase of investments	(583,115)	(619,060)	(429,500)
Proceeds from investments	328,593	362,713	137,180
Payments for business and asset acquisitions, net of cash acquired	(147,261)	(25,972)	(104,776)
Capitalization of internal use software costs	(39,098)	(34,679)	(32,225)
Net cash used in investing activities	<u>(465,067)</u>	<u>(344,291)</u>	<u>(460,763)</u>

The accompanying notes are an integral part of the consolidated financial statements.

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

U.S. dollars in thousands

	Year ended December 31,		
	2020	2019	2018
<u>Cash flows from financing activities:</u>			
Proceeds from issuance of shares upon exercise of options	8,865	5,428	19,048
Purchase of treasury shares	(48,272)	(47,276)	(26,004)
Capital lease payments	(177)	(816)	(876)
Proceeds from issuance of exchangeable senior notes, net	451,421	—	—
Repayment of debt	(215,000)	—	(8,436)
Net cash provided by (used in) financing activities	<u>196,837</u>	<u>(42,664)</u>	<u>(16,268)</u>
Effect of exchange rate changes on cash	<u>1,868</u>	<u>(979)</u>	<u>(5,781)</u>
Net change in cash and cash equivalents	213,944	(13,776)	(86,203)
Cash and cash equivalents at the beginning of the year	<u>228,323</u>	<u>242,099</u>	<u>328,302</u>
Cash and cash equivalents at the end of the year	<u>\$ 442,267</u>	<u>\$ 228,323</u>	<u>\$ 242,099</u>
<u>Supplemental disclosure of cash flows activities:</u>			
<u>Cash paid during the year for:</u>			
Income taxes	<u>\$ 83,251</u>	<u>\$ 65,200</u>	<u>\$ 42,858</u>
Interest	<u>\$ 7,829</u>	<u>\$ 11,493</u>	<u>\$ 12,319</u>
<u>Non-cash activities:</u>			
Decrease in other receivables with respect to exercise of share options	\$ —	\$ —	\$ 53
Increase in accrued expenses and other liabilities with respect to purchase of treasury shares	<u>\$ 112</u>	<u>\$ 35</u>	<u>\$ 1,282</u>

The accompanying notes are an integral part of the consolidated financial statements.



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 1:- GENERAL**

## a. General:

NICE Ltd. and its subsidiaries (the “Company”) is a global enterprise software leader, providing cloud platforms for AI-driven business solutions that serve two main markets, Customer Engagement and Financial Crime and Compliance. The Company's core mission is to transform experiences to be extraordinary and trusted. The Company's solutions are used by customer service organizations of enterprises of all sizes and verticals, and by compliance and fraud-prevention groups in leading financial institutions, offered in multiple delivery models, including cloud and on-premises.

The Company helps organizations transform customer experiences with solutions aimed at understanding consumer journeys, creating smarter hyper-personalized connections, managing omnichannel interactions and providing digital-centric self-service capabilities. The Company also helps organizations transform their workforce experience with solutions aimed at engaging employees, optimizing operations and automating processes. In the Financial Crime and Compliance market, the Company protect financial services organizations and their customers’ accounts and transactions, with solutions that identify risks faster and earlier to prevent money laundering and fraud, as well as ensure compliance in real-time. .

NICE Ltd. is at the forefront of several industry technological disruptions that have greatly accelerated over the course of the recent pandemic: the adoption of cloud platforms by organizations of all sizes and verticals, the shift of consumer and organizational preferences towards digital-centric services and experiences, the growing acceptance of AI, and the need to manage, optimize and engage a diverse and remote workforce. The Company's suite of integrated portfolio of solutions, based on the Company's unique domain expertise, provide customer experience, financial crime and public safety organizations with industry-leading agility and unmatched innovation that are essential for organizations’ success.

## b. Acquisitions:

## 1. Acquisitions in 2020:

- a. On August 18, 2020 the Company completed the acquisition of Guardian Analytics, Inc. ("Guardian Analytics"), a leading AI cloud-based financial crime risk management solution provider. The Company acquired Guardian Analytics for total consideration of \$113,921.

Upon acquisition, Guardian Analytics became a wholly-owned subsidiary of the Company. The acquisition was accounted for as a business combination. As of the acquisition date the Company preliminarily recorded core technology, customer relationships, customer backlog and goodwill in amounts of \$38,341; \$6,659; \$1,028 and \$65,888, respectively. The estimated useful life of the core technology, customer relationships, and customer backlog is 6 years, 8 years and 2 years respectively.

Goodwill generated from this business combination is attributed to synergies between the Company's and Guardian Analytics respective products and services. The goodwill is not deductible for income tax purposes. The preliminary fair value of assets acquired and liabilities assumed from those acquisitions completed during 2020 were based upon preliminary calculations and valuations, and the estimates and assumptions for this acquisition are subject to change as the Company obtains additional information during the respective measurement periods (up to one year from the respective acquisition dates).

The results of Guardian analytics operations have been included in the consolidated financial statements since August 18, 2020. Pro forma results of operations related to this acquisition have not been prepared because they are not material to the Company's consolidated statement of income.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 1:- GENERAL (Cont.)**

- b. During 2020, the Company acquired certain additional companies (in one of them the Company acquired 50.1% of the share capital), which was accounted for as a business combination for a total consideration of \$50,686. The financial results of the those acquired companies are included in the Company's consolidated financial statements from their respective acquisition dates, and the results from these acquisitions individually and in aggregate, were not material to the Company's consolidated financial statements. The Company preliminary recorded \$22,968 of identifiable intangible assets based on their estimated fair values, and \$54,869 of residual goodwill. The preliminary fair value of the non-controlling interest on the acquisition date was approximately \$24,985.

The preliminary fair value of assets acquired and liabilities assumed from acquisitions completed during 2020, were based upon preliminary calculations and valuations, and the estimates and assumptions for these acquisitions are subject to change as the Company obtains additional information during the respective measurement periods (up to one year from the respective acquisition dates).

2. Acquisitions in 2019:

During 2019, the Company acquired certain companies accounted for as a business combination and an asset acquisition (see also note 2z). The financial results of the acquired companies are included in the Company's consolidated financial statements, from their respective acquisition dates, and the results from each of these companies were not individually material to the Company's consolidated financial statements. In the aggregate, the total purchase price for these acquisitions was approximately \$26,671 in cash. The Company recorded \$15,683 of identifiable intangible assets, based on their estimated fair values, and \$14,480 of residual goodwill.

3. Acquisition of Mattersight Corporation in 2018:

On August 20, 2018, the Company completed the acquisition of Mattersight Corporation ("Mattersight"), a leading provider of cloud-based analytics for customer service organizations. The Company acquired Mattersight for total consideration of \$105,053.

Upon acquisition, Mattersight became a wholly-owned subsidiary of the Company. The acquisition was accounted for as a business combination. As of the acquisition date the Company recorded core technology, customer relationships, customer backlog and goodwill in amount of \$50,852; \$7,757; \$5,439 and \$48,579, respectively. The estimated useful life of the core technology, customer relationships, and customer backlog is 5 to 7 years, 7 years, and 2 to 3 years, respectively.

Goodwill generated from this business combination is attributed to synergies between the Company's and Mattersight's respective products and services. The goodwill is not deductible for income tax purposes. The fair value estimates of assets acquired and liabilities assumed from this acquisition were based on a preliminary valuation, which was finalized during 2019 as part of the measurement period. See Note 8 regarding changes during 2019.

The results of Mattersight's operations have been included in the consolidated financial statements since August 20, 2018. Pro forma results of operations related to this acquisition have not been prepared because they are not material to the Company's consolidated statement of income.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)**

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**NOTE 1:- GENERAL (Cont.)**

## 4. Acquisitions related costs:

During 2020, 2019 and 2018, acquisition related costs amounted to \$1,720, \$720 and \$1,249 respectively, and were included in general and administrative expenses.

**NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES**

The consolidated financial statements were prepared in accordance with United States Generally Accepted Accounting Principles ("U.S. GAAP").

## a. Use of estimates:

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates, judgments and assumptions. The Company's management believes that the estimates, judgments and assumptions used are reasonable based upon information available at the time they are made. These estimates, judgments and assumptions can affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

## b. Financial statements in United States dollars:

The currency of the primary economic environment in which the operations of NICE Ltd. and certain subsidiaries are conducted is the U.S. dollar ("dollar"); thus, the dollar is the functional currency of NICE Ltd. and certain subsidiaries.

NICE Ltd. and certain subsidiaries' transactions and balances denominated in dollars are presented at their original amounts. Non-dollar transactions and balances have been remeasured to dollars in accordance with ASC 830, "Foreign Currency Matters". All transaction gains and losses from remeasurement of monetary balance sheet items denominated in non-dollar currencies are reflected in the statements of income as financial income or expenses, as appropriate.

For those subsidiaries whose functional currency has been determined to be a non-dollar currency, assets and liabilities are translated at year-end exchange rates and statement of income items are translated at average exchange rates prevailing during the year. Such translation adjustments are recorded as a separate component of accumulated other comprehensive income (loss) in shareholders' equity.

## c. Principles of consolidation:

The consolidated financial statements incorporate the financial statements of the Company and all of its subsidiaries. Intercompany transactions and balances have been eliminated upon consolidation.

## d. Cash equivalents:

Cash equivalents are short-term unrestricted highly liquid investments that are readily convertible into cash, with original maturities of three months or less at acquisition.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

## e. Marketable securities:

The Company accounts for investments in debt securities in accordance with ASC 320, "Investments - Debt and Equity Securities" and ASC No. 326, "Financial Instruments - Credit Losses". Management determines the appropriate classification of its investments in debt securities at the time of purchase and re-evaluates such determinations at each balance sheet date.

Marketable securities classified as "available-for-sale" ("AFS") are carried at fair value, based on quoted market prices. Unrealized gains and losses are reported in a separate component of shareholders' equity in accumulated other comprehensive income, net of taxes. Gains and losses are recognized when realized, on a specific identification basis, in the Company's consolidated statements of income.

For each reporting period, the Company evaluates whether declines in fair value below carrying value are due to expected credit losses, as well as the company's ability and intention to hold the investment until a forecasted recovery occurs, in accordance with ASC 326. Allowance for credit losses on AFS debt securities are recognized as a charge in financial expenses (income), net, on the consolidated statements of income, and any remaining unrealized losses, net of taxes, are included in accumulated other comprehensive income (loss). In 2019 and 2018, no other than temporary impairment were recorded and in 2020 no credit losses were recorded.

In 2020, the Company classified all securities with maturities beyond 12 months as current assets under the caption marketable securities on the consolidated balance sheet. These securities are available to support current operations and the company may sell these debt securities prior to their stated maturities.

## f. Property and equipment, net:

Property and equipment are stated at cost, net of accumulated depreciation.

Depreciation is calculated using the straight-line method over the estimated useful lives of the assets, at the following annual periods ranges:

	<b>Years</b>
Computers and peripheral equipment	3 - 5
Internal use software	3
Office furniture and equipment	4 - 14

Leasehold improvements are amortized by the straight-line method over the term of the lease or the estimated useful life of the improvements, whichever is shorter.

## g. Internal use software costs:

The Company capitalizes development costs incurred during the application development stage that are related to internal use technology that supports its cloud services. Under ASC 350-40, internal-use software is included in property and equipment, net in the consolidated balance sheets. Capitalization of such costs begins when the preliminary project stage is complete and ceases at the point in which the project is substantially complete and is ready for its intended purpose. Costs incurred in the process of software production are charged to expenses as incurred.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

## h. Other intangible assets, net:

Other intangible assets are amortized over their estimated useful lives using the straight-line method, at the following annual periods ranges:

	<b>Years</b>
Core technology	4 – 8
Customer relationships	3 - 8
Trademarks	2 - 12
Customer backlog	2 - 3

## i. Impairment of long-lived assets:

The Company's long-lived assets and identifiable intangibles that are subject to amortization are reviewed for impairment in accordance with ASC 360, "Property, Plant, and Equipment," whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Impairment indicators include any significant changes in the manner of the Company's use of the assets and significant negative industry or economic trends.

Upon determination that the carrying value of a long-lived asset may not be recoverable based upon a comparison of aggregate undiscounted projected future cash flows to the carrying amount of the asset, an impairment charge is recorded for the excess of the carrying amount over fair value. In 2020, 2019 and 2018, no impairment charge was recognized.

## j. Goodwill:

Goodwill represents the excess of the purchase price in a business combination over the fair value of the net tangible and intangible assets acquired. Under ASC 350, "Intangible - Goodwill and Other" ("ASC 350"), goodwill is not amortized, but rather is subject to an annual impairment test.

ASC 350 requires goodwill to be tested for impairment at the reporting unit level at least annually or between annual tests in certain circumstances, and written down when impaired. Goodwill is tested for impairment by comparing the fair value of the reporting unit with its carrying value.

In 2020 the Company adopted ASU 2017-04. Therefore, if the Company determines that it is more likely than not that the fair value of a reporting unit is less than its carrying value, then the Company prepares a quantitative analysis to determine whether the carrying value of reporting unit exceeds its estimated fair value. If the carrying value of a reporting unit exceeds its estimated fair value, the Company recognizes an impairment of goodwill for the amount of this excess, in accordance with the guidance in FASB Accounting Standards Update ("ASU") No. 2017-04, Intangibles - Goodwill and Other (Topic 350), Simplifying the Test for Goodwill Impairment, which the company adopted as of January 1, 2020.

During the fourth quarter of each of the years presented, the Company performed a qualitative assessment for its reporting units and concluded that the qualitative assessment did not result in a more likely than not indication of impairment, and therefore no further impairment testing was required. Accordingly, during the years 2020, 2019 and 2018, no impairment charge was recognized.

## k. Exchangeable senior notes:

The Company applies ASC 815, "Derivative and Hedging" ("ASC 815"), and ASC 470, "Debt" ("ASC 470"). Under these standards, the Company separately accounts for the liability and equity components of

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

convertible debt instruments that may be settled in cash in a manner that reflects the Company's nonconvertible debt borrowing rate. The liability component at issuance is recognized at fair value, based on the fair value of a similar instrument that does not have a conversion feature. The equity component is based on the excess of the principal amount of the debentures over the fair value of the liability component, after adjusting for an allocation of debt issuance costs, and is recorded as capital in excess of par.

Debt discounts are amortized as additional non-cash interest expense over the expected life of the debt. The Company allocated the total issuance costs incurred to the liability and equity components of the convertible senior notes based on the same proportions as the proceeds from the notes.

1. Revenue recognition:

The Company generates revenues from sales of cloud, service, and software products, which include software-as-a-service, network connectivity, hosting, support and maintenance, implementation, configuration, project management, consulting and training, and software license. The Company sells its cloud, products and services directly through its sales force and indirectly through a global network of distributors, system integrators and strategic partners, all of whom are considered end-users.

Starting 2018, the Company recognizes revenues in accordance with ASC No. 606, "Revenue from Contracts with Customers" ("ASC 606"). Under the standard, the Company recognizes revenue when its customer obtains control of promised goods or services in an amount that reflects the consideration that the Company expects to receive in exchange for those goods or services. To determine revenue recognition for contracts that are within the scope of the standard, the Company performs the following five steps:

1) Identify the contract(s) with a customer

A contract with a customer exists when (i) there is an enforceable contract with the customer that defines each party's rights regarding the goods or services to be transferred and identifies the payment terms related to these goods or services; (ii) the contract has commercial substance; and (iii) the Company determines that collection of substantially all consideration for goods or services that are transferred is probable based on the customer's intent and ability to pay the promised consideration. The Company applies judgment in determining the customer's ability and intent to pay, which is based on a variety of factors, including the customer's historical payment experience.

2) Identify the performance obligations of the contract

The Company enters into contracts that can include multiple performance obligations. The Company accounts for individual products and services separately if they are distinct – i.e., if a product or service is separately identifiable from other items in the contract and if a customer can benefit from it on its own or with other resources that are readily available to the customer.

3) Determine the transaction price

The transaction price is determined based on the consideration to which the Company will be entitled in exchange for transferring goods or services to the customer.

Payment terms and conditions vary by contract type. In instances where the timing of revenue recognition differs from the timing of invoicing, the Company determines its contracts generally to not include a significant financing component since the Company's selling prices are not subjected to billing terms nor is its purpose to receive financing from its customers or to provide customers with financing.

Revenue is measured based on the consideration specified in a contract with a customer, excluding taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction, that are collected by the Company from a customer. The Company enters into

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

contracts that can include various combinations of products and services, which are generally capable of being distinct and accounted for as separate performance obligations.

4) Allocate the transaction price to the performance obligations in the contract

The Company allocates the transaction price to each performance obligation identified based on its relative standalone selling price ("SSP") out of the total consideration of the contract.

The Company uses judgment in determining the SSP. If the SSP is not observable through standalone transactions, the Company estimates the SSP taking into account available information such as geographic or regional specific factors, internal costs, profit objectives, and internally approved pricing guidelines related to the performance obligations.

The Company typically establish SSP range for its products and services, which is reassessed on a periodic basis or when facts and circumstances change. SSP for products and services can evolve over time due to changes in the Company's pricing practices that are influenced by intense competition, changes in demand for products and services, and economic factors, among others.

For product where the SSP cannot be determined based on observable prices, given the same products are sold for a broad range of amounts (that is, the selling price is highly variable), the SSP included in a contract with multiple performance obligations is determined by applying a residual approach whereby all other performance obligations within a contract are first allocated a portion of the transaction price based upon their respective SSPs, with any residual amount of transaction price allocated to these product revenues.

5) Recognize revenue when (or as) the entity satisfies a performance obligation

The Company derives its cloud revenues from subscription services, which are comprised of subscription fees from granting customers access to the Company's cloud platforms, network connectivity and set up fees for deployment of certain cloud platforms.

Revenue from subscription services is recognized either ratably over the contract period or based on usage, revenue from network connectivity is based on customer call usage and is recognized in the period the call is initiated, and services fees for deployment are amortized over average customer life.

Revenue is recognized at the time the related performance obligation is satisfied by transferring the promised product or service to the customer. Software license revenues are recognized at the point in time when the software license is delivered and the customer obtains control of the asset.

Support and maintenance service revenues are recognized ratably over the term of the underlying maintenance contract term. Renewals of maintenance contracts create new performance obligations that are satisfied over the term with the revenues recognized ratably over the period of the renewal.

Professional services revenues, except fees for deployment of certain cloud platforms, are recognized as services are performed.

Deferred revenues, which represent a contract liability, represent unrecognized fees collected mostly for maintenance, cloud and professional services. Deferred revenues are recognized as (or when) the Company performs under the contract. The amount of revenues recognized in the period that was included in the opening deferred revenues balance was approximately \$215,737 for the year ended December 31, 2020.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

As of December 31, 2020, the aggregate amount of the total transaction price allocated in contracts with original duration greater than one year of the remaining performance obligations was approximately \$1,348,100. For performance obligation which are recognized over time, based on usage, the Company elected to disclose only the contractual minimum attributed to these performance obligations, as part of the remaining performance obligation disclosure.

As of December 31, 2020, the Company expects to recognize the majority of the revenue of remaining performance obligations over the next 24 months. Such remaining performance obligations represent unsatisfied or partially unsatisfied performance obligations pursuant to ASC 606. The Company has elected the optional exemption, which allows for the exclusion of the amounts for remaining performance obligations that are part of contracts with an original expected duration of one year or less.

m. **Costs to Obtain Contracts:**

The Company capitalizes sales commission as costs of obtaining a contract when they are incremental and if they are expected to be recovered. The Company applies judgment in estimating the amortization period by taking into consideration customer contract terms, history of renewals, expected length of customer relationship, as well as the useful life of the underlying technology and products. Amortization of sales commission expense is included in Selling and Marketing expenses in the accompanying consolidated statements of income. For costs that the Company would have capitalized and amortized over one year or less, the Company has elected to apply the practical expedient and expense these contract costs as incurred. Commission expense for the years 2020, 2019 and 2018 were \$100,219; \$92,468 and \$75,890, respectively.

n. **Research and development costs:**

Research and development costs (net of grants and capitalized expenses) incurred in the process of software production are charged to expenses as incurred.

o. **Income taxes:**

To prepare the consolidated financial statements, the Company estimates its income taxes in each of the jurisdictions in which it operates, and in certain of these jurisdictions, it is calculated based on the Company's assumptions as to its entitlement to various benefits under the applicable tax laws in the jurisdiction. The entitlement to such benefits depends upon the Company's compliance with the terms and conditions set out in these laws.

The Company accounts for income taxes in accordance with ASC 740, "Income Taxes." ASC 740 prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company provides a valuation allowance, if necessary, to reduce deferred tax assets to the amount that is more likely than not to be realized. Deferred tax assets and deferred tax liabilities are presented under long-term assets and long-term liabilities, respectively.

The Company implements a two-step approach to recognize and measure uncertain tax positions. The first step is to evaluate the tax position taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that, on an evaluation of the technical merits, the tax position will be sustained on audit, including resolution of any related appeals or litigation processes. The second step is to measure the tax benefit as the largest amount that is more than 50% (cumulative basis) likely to be realized upon ultimate settlement.



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

The Company classifies interest and penalties on income taxes (which includes uncertain tax positions) as taxes on income.

p. Non-royalty grants:

Non-royalty bearing grants from the Government of Israel for funding research and development projects are recognized at the time the Company is entitled to such grants on the basis of the related costs incurred and recorded as a deduction from research and development expenses.

q. Concentrations of credit risk:

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents, trade receivables, marketable securities and foreign currency derivative contracts.

The Company's cash and cash equivalents are invested in deposits and money market funds, mainly in dollars with major international banks. Deposits in the U.S. may be in excess of insured limits and are not insured in other jurisdictions. Generally, these deposits may be redeemed upon demand and therefore bear minimal risk.

The Company's trade receivables are derived from sales to customers generated from a multitude of markets in countries around the world. The Company performs ongoing credit evaluations of its customers and insures certain of its receivables with a credit insurance company. A general allowance for Credit losses is provided, based on the length of time the receivables are past due.

The Company's marketable securities include investment in corporate debentures, U.S. Treasuries and U.S. Government Agencies. The Company's investment policy limits the amount that the Company may invest in any one type of investment per minimum credit rating or specific issuer, thereby reducing credit risk concentrations.

The Company entered into foreign currency forward and option contracts intended to protect cash flows resulting from payroll and facilities related expenses against the volatility in value of forecasted non-dollar currency. The derivative instruments hedge a portion of the Company's non-dollar currency exposure. See Note 10 for additional information.

r. Severance pay:

The Israeli Severance Pay Law-1963 (the "Severance Pay Law") generally requires payment of severance pay upon dismissal of an employee or upon termination of employment in certain circumstances. The Company makes ongoing deposits into Israeli employees' pension plans to fund their severance liabilities. According to Section 14 of the Severance Pay Law, the Company deposits for employees employed by the Company since May 1, 2009 are made in lieu of the Company's severance liability, therefore no obligation is provided for in the financial statements. Severance pay liabilities for employees employed by the Company prior to May 1, 2009, as well as employees with special contractual arrangements, are provided for in the financial statements based upon the latest monthly salary multiplied by the number of years of employment.

Severance pay expense for 2020, 2019 and 2018 amounted to \$9,649, \$7,656 and \$13,453, respectively.

The Company also has other liabilities for severance pay in other jurisdictions.

The Company has multiple 401(k) defined contribution plans covering certain employees in the U.S. All eligible employees may elect to contribute a portion of their eligible compensation, generally not greater than an annual contribution of \$19.5 in 2020, and \$19 in 2019 and 2018 (for certain employees over 50

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

years of age the maximum annual contribution is \$26 per year in 2020, and \$25 in 2019 and 2018) of their total annual compensation to the plan through salary deferrals, subject to IRS limits. The Company, at its discretion, matches 50% of employee contributions to the plan up to a limit of 6-8% of their eligible compensation. In the years 2020, 2019 and 2018, the Company recorded an expense for all matching contributions in the amount of \$8,893; \$8,068 and \$7,732, respectively.

## s. Leases

The Company elected to combine its lease and non-lease components for car leases and to not recognize a lease liability and a right-of-use (“ROU”) asset on the balance sheet for leases with a term of twelve months or less. The Company recognize the associated lease payments in the consolidated statements of income on a straight-line basis over the lease term.

Under Topic 842, the Company determines if an arrangement is a lease at inception. ROU assets and lease liabilities are recognized at commencement date based on the present value of remaining lease payments over the lease term. For this purpose, the Company consider only payments that are fixed and determinable at the time of commencement. As most of the Company leases do not provide an implicit rate, the Company use its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. The incremental borrowing rate is estimated to approximate the interest rate on a collateralized basis with similar terms and payments. The ROU asset is recorded net of any lease incentives received. The lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise such options. The Company's lease agreements may contain variable costs such as common area maintenance, insurance, real estate taxes or other costs. Variable lease costs are expensed as incurred on the consolidated statements of income.

## t. Basic and diluted net earnings per share:

Basic net earnings per share are computed based on the weighted average number of ordinary shares outstanding during each year. Diluted net earnings per share are computed based on the weighted average number of ordinary shares outstanding during each year plus dilutive potential equivalent ordinary shares considered outstanding during the year, in accordance with ASC 260, “Earnings per Share”.

As further described in Note 15, the Company entered into an exchangeable note hedge transaction and warrants transaction. While the exchangeable note hedge transaction is anti-dilutive and as such is not included in the computation of diluted earnings per share, the warrants transaction had dilutive effect and as such was included in the computation of the diluted earnings per share. The number of shares related to the outstanding exchangeable note hedge transaction is 3,457,475.

As the Company's intention and ability is to settle the convertible senior notes issued in 2017 in cash, the potential issuance of shares related to these notes does not have a dilutive effect on the shares. The Company intends to settle the principal amount of the convertible senior notes issued in 2020 in cash and therefore will use the treasury stock method for calculating any potential dilutive effect on diluted net income per share, if applicable. The conversion will have a dilutive impact on diluted net income per share when the average market price of an ordinary share for a given period exceeds the conversion price of \$299.19 per share. 1,537,504 shares underlying the conversion option of the convertible senior notes issued in 2020 are not considered in the calculation of diluted net income per share as the effect would be anti-dilutive.

The weighted average number of shares related to outstanding anti-dilutive options excluded from the calculations of diluted net earnings per share was 2,295; 4,921 and 108,617 for the years 2020, 2019 and 2018, respectively.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

## u. Accounting for stock-based compensation:

The Company accounts for stock-based compensation in accordance with ASC 718, "Compensation - Stock Compensation" ("ASC 718"), which requires the measurement and recognition of stock base compensation expense based on estimated fair values for all share-based payment awards made to employees and directors. ASC 718 requires companies to estimate the fair value of equity-based payment awards on the date of grant using an option-pricing model.

The Company recognizes compensation expenses for the value of its awards, which have graded vesting, based on the accelerated attribution method over the requisite service period of each of the awards. The Company account for forfeitures as they occur.

The Company estimates the fair value of stock options granted using the Black-Scholes-Merton option-pricing model, which requires a number of assumptions: the expected volatility is based upon actual historical stock price movements; the expected term of options granted is based upon historical experience and represents the period of time that options granted are expected to be outstanding; the risk-free interest rate is based on the yield from U.S. Federal Reserve zero-coupon bonds with an equivalent term; and the expected dividend rate (an annualized dividend yield) is based on the per share dividend declared by the Company's Board of Directors.

The Company measures the fair value of restricted stock based on the market value of the underlying shares at the date of grant. The fair value of certain performance share units with market-based performance conditions granted under the employee equity plan was estimated on the grant date using the Monte Carlo valuation methodology.

## v. Fair value of financial instruments:

The Company applies ASC 820, "Fair Value Measurements and Disclosures" ("ASC 820"). Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date. The Company measures its investments in money market funds classified as cash equivalents, marketable securities and its foreign currency derivative contracts at fair value.

In determining fair value, the Company uses various valuation approaches. ASC 820 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The hierarchy is broken down into three levels based on the inputs as follows:

- Level 1 - Valuations based on quoted prices in active markets for identical assets that the Company has the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.
- Level 2 - Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

- Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of observable inputs can vary from investment to investment and is affected by a wide variety of factors, including, for example, the type of investment, the liquidity of markets and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment and the investments are categorized as Level 3.

The Company's marketable securities, exchangeable senior notes and foreign currency derivative contracts are classified within Level 2 (see Notes 3, 10 and 15).

The carrying amounts of cash and cash equivalents, short-term bank deposits, trade receivables and trade payables approximate their fair value due to the immediate or short-term maturities of these financial instruments.

w. Legal contingencies:

The Company is currently involved in various claims and legal proceedings. The Company reviews the status of each matter and assesses its potential financial exposure. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, the Company accrues a liability for the estimated loss.

x. Advertising expenses:

Advertising expenses are charged to expense as incurred. Advertising expenses for the years 2020, 2019 and 2018 were \$14,134; \$16,040 and \$13,527, respectively.

y. Treasury shares:

The Company repurchases its ordinary shares from time to time on the open market or in other transactions and holds such shares as treasury shares. The Company presents the cost to repurchase treasury shares as a reduction of shareholders' equity. The Company reissues treasury shares under the stock purchase plan, upon exercise of options and upon vesting of restricted stock units ("RSU"). Reissuance of treasury shares is accounted for in accordance with ASC 505-30 whereby gains are credited to additional paid-in capital and losses are charged to additional paid-in capital to the extent that previous net gains are included therein and otherwise to retained earnings.

z. Business combination:

The Company applies the provisions of ASC 805, "Business Combination" and allocates the fair value of purchase consideration to the tangible assets acquired, liabilities assumed, and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. When determining the fair values of assets acquired and liabilities assumed, management makes significant estimates and assumptions, especially with respect to intangible assets.

Significant estimates in valuing certain intangible assets include, but are not limited to future expected cash flows from customer relationships, acquired technology and acquired trademarks from a market participant perspective, useful lives and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

result, actual results may differ from estimates. Acquisition-related expenses are recognized separately from the business combination and are expensed as incurred.

The Company accounts for a transaction as an asset acquisition pursuant to the provisions of ASU 2017-01, "Clarifying the Definition of a Business," when substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, or otherwise does not meet the definition of a business. Asset acquisition-related costs are capitalized as part of the asset or assets acquired.

aa. Non-controlling interests

The consolidated financial statements included the Company's accounts and the accounts of the Company's wholly- and majority-owned subsidiaries. Non-controlling interest positions of our consolidated entities are reported as a separate component of consolidated equity from the equity attributable to the Company's shareholders.

ab. Comprehensive income:

The Company accounts for comprehensive income in accordance with ASC 220, "Comprehensive Income". Comprehensive income generally represents all changes in shareholders' equity during the period except those resulting from investments by, or distributions to, shareholders. The Company determined that its items of other comprehensive income relate to gains and losses on hedging derivative instruments, unrealized gains and losses on available for sale marketable securities and changes in foreign currency translation adjustments.

The following tables show the components of accumulated other comprehensive income, net of taxes, as of December 31, 2020 and 2019:

	<b>Year ended December 31, 2020</b>			
	<b>Unrealized gains (losses) on marketable securities</b>	<b>Unrealized gains (losses) on cash flow hedges</b>	<b>Foreign currency translation adjustment</b>	<b>Total</b>
Beginning balance	\$ 4,131	\$ 2,351	\$ (39,781)	\$ (33,299)
Other comprehensive income before reclassifications	\$ 11,249	\$ 4,954	\$ 4,998	21,201
Amounts reclassified from accumulated other comprehensive loss	\$ (2,095)	\$ (2,469)	—	(4,564)
Net current-period other comprehensive income	9,154	2,485	4,998	16,637
Ending balance	\$ 13,285	\$ 4,836	\$ (34,783)	\$ (16,662)

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

	Year ended December 31, 2019			
	Unrealized losses on marketable securities	Unrealized gains (losses) on cash flow hedges	Foreign currency translation adjustment	Total
Beginning balance	\$ (1,662)	\$ (2,715)	\$ (42,239)	\$ (46,616)
Other comprehensive loss before reclassifications	6,260	5,495	2,458	14,213
Amounts reclassified from accumulated other comprehensive income (loss)	(467)	(429)	—	(896)
Net current-period other comprehensive loss	5,793	5,066	2,458	13,317
Ending balance	\$ 4,131	\$ 2,351	\$ (39,781)	\$ (33,299)

## ac. Recently adopted accounting standards:

On January 1, 2020, we adopted Accounting Standards Update No. 2016-13, Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, using the modified retrospective transition method. Upon adoption, we changed our impairment model to utilize a forward-looking current expected credit losses (CECL) model in place of the incurred loss methodology for financial instruments measured at amortized cost, including our accounts receivable. In addition, we modified our impairment model to the CECL model for AFS debt securities and discontinued using the concept of “other than temporary” impairment on AFS debt securities. CECL estimates on accounts receivable are recorded as general and administrative expenses on our consolidated statements of income. CECL estimates on AFS debt securities are recognized in interest and other income (expense), net on our condensed consolidated statements of income. The cumulative effect adjustment from adoption was immaterial to our consolidated financial statements. We continue to monitor the financial implications of the COVID-19 pandemic on expected credit losses.

In January 2017, the FASB issued ASU 2017-04 “Intangibles - Goodwill and Other (ASC 350): Simplifying the Accounting for Goodwill Impairment” (“ASU 2017-04”). ASU 2017-04 eliminates step 2 of the goodwill impairment test, which requires the calculation of the implied fair value of goodwill by assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. Instead, an entity will compare the fair value of a reporting unit with its carrying amount and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. ASU 2017-04 is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. The Company adopted ASU 2017-04 effective January 1, 2020 with no material impact on our consolidated financial statements.

In August 2018, the FASB issued ASU 2018-15, “Intangibles – Goodwill and Other – Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract.” The new standard requires capitalization of the implementation costs incurred in a cloud computing arrangement that is a service contract, with the requirements for capitalization costs incurred to develop or obtain internal-use software. The new standard also requires presenting the capitalized implementation costs and their related amortization and cash flows on the financial statements in consistent with the prepaid amounts and fees related to the associated cloud computing arrangement. Capitalized implementation costs will be required to be amortized over the term of the arrangement, beginning when the module or component of the cloud computing arrangement that is a service contract is ready for its intended use. The Company adopted ASU 2018-15 effective January 1, 2020 on a prospective basis with no material impact to the Consolidated Financial Statements.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)**

ad. Recently issued accounting standards, not yet adopted:

In August 2020, the FASB issued ASU 2020-06, which simplifies the guidance on the issuer's accounting for convertible debt instruments by removing the separation models for (1) convertible debt with a cash conversion feature and (2) convertible instruments with a beneficial conversion feature. As a result, entities will not separately present in equity an embedded conversion feature in such debt. Instead, they will account for a convertible debt instrument wholly as debt, unless certain other conditions are met. The elimination of these models will reduce reported interest expense and increase reported net income for entities that have issued a convertible instrument that was within the scope of those models before the adoption of ASU 2020-06. ASU 2020-06 also requires that the effect of potential share settlement be included in the diluted earnings per share calculation when an instrument may be settled in cash or share. This amendment removes current guidance that allows an entity to rebut this presumption if it has a history or policy of cash settlement. Furthermore, ASU 2020-06 requires the application of the if-converted method for calculating diluted earnings per share, the treasury stock method will be no longer available. The provisions of ASU 2020-06 are applicable for fiscal years beginning after December 15, 2021, with early adoption permitted no earlier than fiscal years beginning after December 15, 2020. The Company is currently evaluating the impact of ASU 2020-06 on its consolidated financial statements.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes. This standard simplifies the accounting for income taxes by eliminating certain exceptions to the guidance in Topic 740 related to the approach for intra-period tax allocation, the methodology for calculating income taxes in an interim period and the recognition of deferred tax liabilities for outside basis differences. The new guidance also simplifies aspects of the accounting for franchise taxes and enacted changes in tax laws or rates and clarifies the accounting for transactions that result in a step-up in the tax basis of goodwill and allocating consolidated income taxes to separate financial statements of entities not subject to income tax. ASU 2019-12 is effective for annual and interim periods in fiscal years beginning after December 15, 2020. Early adoption is permitted. The adoption of ASU 2019-12 is not expected to have a significant impact on the Company's consolidated financial statements.

**NOTE 3:- SHORT-TERM AND LONG-TERM INVESTMENTS**

Short-term and long-term investments include marketable securities in the amount of \$1,012,282 and \$735,717 as of December 31, 2020 and 2019, respectively and short-term bank deposits in the amounts of \$9,331 and \$17,444 as of December 31, 2020 and 2019, respectively.

The following table summarizes amortized costs, gross unrealized gains and losses and estimated fair values of available-for-sale marketable securities as of December 31, 2020 and 2019:

	Amortized cost		Gross unrealized gains		Gross unrealized losses		Estimated fair value (Level 2 within the fair value hierarchy)	
	December 31,		December 31,		December 31,		December 31,	
	2020	2019	2020	2019	2020	2019	2020	2019
Corporate debentures	\$973,029	\$687,886	\$ 15,016	\$ 4,865	\$ (343)	\$ (271)	\$ 987,702	\$ 692,480
U.S. Treasuries	17,613	23,182	418	82	—	(2)	18,031	23,262
U.S. Government Agencies	6,546	19,957	3	38	—	(20)	6,549	19,975
	<u>\$997,188</u>	<u>\$731,025</u>	<u>\$ 15,437</u>	<u>\$ 4,985</u>	<u>\$ (343)</u>	<u>\$ (293)</u>	<u>\$1,012,282</u>	<u>\$ 735,717</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 3:- SHORT-TERM AND LONG-TERM INVESTMENTS (Cont.)**

As of December 31, 2020, the Company classified all of its available for sale marketable securities portfolio to short term presentation on the balance sheet, since the Company's investment policy changed such that the portfolio is available for use in current operations.

The scheduled maturities of available-for-sale marketable securities as of December 31, 2020 are as follows:

	Amortized cost	Estimated fair value
Due within one year	\$ 135,533	\$ 136,391
Due after one year through five years	861,655	875,891
	<u>\$ 997,188</u>	<u>\$ 1,012,282</u>

Investments with continuous unrealized losses for less than 12 months and 12 months or greater and their related fair values as of December 31, 2020 and 2019 are as indicated in the following tables:

	December 31, 2020					
	Investments with continuous unrealized losses for less than 12 months		Investments with continuous unrealized losses for 12 months or greater		Total Investments with continuous unrealized losses	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Corporate debentures	\$ 194,587	\$ (337)	\$ 8,590	\$ (6)	\$ 203,177	\$ (343)
U.S. Treasuries	2,936	—	—	—	2,936	—
	<u>\$ 197,523</u>	<u>\$ (337)</u>	<u>\$ 8,590</u>	<u>\$ (6)</u>	<u>\$ 206,113</u>	<u>\$ (343)</u>

	December 31, 2019					
	Investments with continuous unrealized losses for less than 12 months		Investments with continuous unrealized losses for 12 months or greater		Total Investments with continuous unrealized losses	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Corporate debentures	\$ 70,733	\$ (117)	\$ 48,658	\$ (154)	\$ 119,391	\$ (271)
U.S. Treasuries	—	—	5,005	(2)	5,005	(2)
U.S. Government Agencies	10,974	(20)	—	—	10,974	(20)
	<u>\$ 81,707</u>	<u>\$ (137)</u>	<u>\$ 53,663</u>	<u>\$ (156)</u>	<u>\$ 135,370</u>	<u>\$ (293)</u>



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 4:- PREPAID EXPENSES AND OTHER CURRENT ASSETS**

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Government authorities	\$ 81,012	\$ 46,444
Interest receivable	5,829	6,948
Prepaid expenses	81,459	56,008
Other	7,040	7,572
	<u>\$ 175,340</u>	<u>\$ 116,972</u>

**NOTE 5:- PREPAID EXPENSES AND OTHER LONG-TERM ASSETS**

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Deferred commission costs	\$ 94,087	\$ 79,336
Severance pay fund	13,511	13,201
Prepaid expenses	39,875	27,912
Other	6,187	3,585
	<u>\$ 153,660</u>	<u>\$ 124,034</u>

**NOTE 6:- PROPERTY AND EQUIPMENT, NET**

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Cost:		
Computers and peripheral equipment	\$ 192,898	\$ 187,405
Internal use software	145,914	105,297
Office furniture and equipment	10,417	9,943
Leasehold improvements	56,976	55,599
	<u>406,205</u>	<u>358,244</u>
Accumulated depreciation:		
Computers and peripheral equipment	147,618	136,748
Internal use software	75,743	41,622
Office furniture and equipment	6,733	5,418
Leasehold improvements	38,326	32,809
	<u>268,420</u>	<u>216,597</u>
Depreciated cost	<u>\$ 137,785</u>	<u>\$ 141,647</u>

Depreciation expense totaled \$67,892, \$60,174 and \$49,963 for the years 2020, 2019 and 2018, respectively.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 6:- PROPERTY AND EQUIPMENT, NET (Cont.)**

The Company recorded a reduction of \$22,355 and \$18,653 to the cost and accumulated depreciation of fully depreciated equipment and leasehold improvements no longer in use for the years ended December 31, 2020 and 2019, respectively.

**NOTE 7:- OTHER INTANGIBLE ASSETS, NET**

a. Definite-lived other intangible assets:

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Original amounts:		
Core technology	\$ 635,250	\$ 577,692
Customer relationships, backlog and distribution network	269,717	258,137
Trademarks	44,440	44,440
	<u>949,407</u>	<u>880,269</u>
Accumulated amortization:		
Core technology	353,558	281,319
Customer relationships, backlog and distribution network	207,165	170,454
Trademarks	22,681	17,477
	<u>583,404</u>	<u>469,250</u>
Other intangible assets, net	<u>\$ 366,003</u>	<u>\$ 411,019</u>

b. Amortization expense amounted to \$114,134, \$113,056 and \$107,179 for the years ended December 31, 2020, 2019 and 2018, respectively.

c. Estimated amortization expense:

For the year ended December 31,

2021	\$ 112,883
2022	93,096
2023	77,506
2024	60,291
2025	13,966
Thereafter	8,261
	<u>\$ 366,003</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 8:- GOODWILL**

Following the Company's acquisitions in 2020 and 2019, as described in Note 1b, the changes in the carrying amount of goodwill allocated to reportable segments for the years ended December 31, 2020 and 2019 are as follows:

	<b>Year ended December 31, 2020</b>		
	<b>Customer Engagement</b>	<b>Financial Crime and Compliance</b>	<b>Total</b>
As of January 1, 2020	\$ 1,114,680	\$ 263,738	\$ 1,378,418
Acquisitions	35,034	85,723	120,757
Functional currency translation adjustments	3,309	768	4,077
As of December 31, 2020	<u>\$ 1,153,023</u>	<u>\$ 350,229</u>	<u>\$ 1,503,252</u>

	<b>Year ended December 31, 2019</b>		
	<b>Customer Engagement</b>	<b>Financial Crime and Compliance</b>	<b>Total</b>
As of January 1, 2019	\$ 1,103,091	\$ 263,115	\$ 1,366,206
Acquisitions (*)	9,176	—	9,176
Functional currency translation adjustments	2,413	623	3,036
As of December 31, 2019	<u>\$ 1,114,680</u>	<u>\$ 263,738</u>	<u>\$ 1,378,418</u>

(\*) Including adjustment of \$(5,304), resulting from finalization of purchase price allocations with respect to 2019.

(\*)

**NOTE 9:- ACCRUED EXPENSES AND OTHER LIABILITIES**

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Payroll and related expenses	\$ 190,274	\$ 179,291
Accrued expenses	95,951	107,901
Government authorities	127,129	101,194
Other	3,820	3,299
	<u>\$ 417,174</u>	<u>\$ 391,685</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 10:- DERIVATIVE INSTRUMENTS**

The Company's risk management strategy includes the use of derivative financial instruments to reduce the volatility of earnings and cash flows associated with changes in foreign currency exchange rates.

ASC 815, "Derivatives and Hedging" ("ASC 815"), requires the Company to recognize all of its derivative instruments as either assets or liabilities on the balance sheet at fair value. The accounting for changes in the fair value (i.e., gains or losses) of a derivative instrument depends on whether it has been designated and qualifies as part of a hedging relationship and further, on the type of hedging relationship. For those derivative instruments that are designated and qualify as hedging instruments, an entity must designate the hedging instrument, based upon the exposure being hedged, as a fair value hedge, cash flow hedge or a hedge of a net investment in a foreign operation.

Beginning January 1, 2019, gains and losses on derivatives instruments that are designated and qualify as a cash flow hedge (i.e., hedging the exposure to variability in expected future cash flows that are attributable to a particular risk), are recorded in accumulated other comprehensive income (loss) and reclassified into in the same accounting period in which the designated forecasted transaction or hedged item affects earnings. Prior to January 1, 2019, cash flow hedge ineffectiveness was separately measured and reported immediately in earnings. Cash flow hedge ineffectiveness was immaterial during 2018.

The Company entered into option and forward contracts to hedge a portion of anticipated New Israeli Shekel ("NIS"), Indian Rupee ("INR") and Philippine peso ("PHP") payroll and benefit payments as well as facilities related payments. These derivative instruments are designated as cash flow hedges, as defined by ASC 815 and accordingly are measured in fair value. These transactions are effective and, as a result, gain or loss on the derivative instruments are reported as a component of accumulated other comprehensive income (loss) and reclassified as payroll expenses, facility expenses or finance expenses, respectively, at the time that the hedged income/expense is recorded.

	Notional amount		Fair value (Level 2 within the fair value hierarchy)	
	December 31,		December 31,	
	2020	2019	2020	2019
Option contracts to hedge payroll				
expenses ILS	\$ —	\$ 16,204	\$ —	\$ 294
expenses INR	15,733	21,904	795	800
Option contracts to hedge lease obligations				
expenses ILS	—	1,273	—	19
expenses INR	901	2,006	46	80
Forward contracts to hedge payroll				
expenses ILS	67,652	67,139	4,807	1,333
expenses INR	7,866	10,032	168	50
expenses PHP	1,623	2,362	3	64
Forward contracts to hedge lease obligations				
expenses INR	451	—	10	—
expenses ILS	—	2,546	—	67
expenses PHP	—	5,354	—	12
	\$ 94,226	\$ 128,820	\$ 5,829	\$ 2,719

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 10:- DERIVATIVE INSTRUMENTS (Cont.)**

The Company currently hedges its exposure to the variability in future cash flows for a maximum period of one year. As of December 31, 2020, the Company expects to reclassify all of its unrealized gains and losses from accumulated other comprehensive income to earnings during the next twelve months.

The fair value of the Company's outstanding derivative instruments at December 31, 2020 and 2019 is summarized below:

		<b>Fair value of derivative instruments</b>	
		<b>December 31,</b>	
<b>Balance sheet line item</b>		<b>2020</b>	<b>2019</b>
Derivative assets:			
Foreign exchange option contracts	Prepaid expenses and other current assets	\$ 841	\$ 1,194
Foreign exchange forward contracts	Prepaid expenses and other current assets	4,988	1,525
Derivative liabilities:			
Foreign exchange option contracts	Accrued expenses and other liabilities	—	—
Foreign exchange forward contracts	Accrued expenses and other liabilities	\$ —	\$ —

The effect of derivative instruments in cash flow hedging relationship on income and other comprehensive income for the years ended December 31, 2020, 2019 and 2018 is summarized below:

		<b>Amount of gain (loss) recognized in other comprehensive income on derivative, net of tax (effective portion)</b>		
		<b>Year Ended December 31,</b>		
		<b>2020</b>	<b>2019</b>	<b>2018</b>
Derivatives in foreign exchange cash flow hedging relationships:				
Forward contracts		\$ 5,901	\$ 2,108	\$ (6,059)
Option contracts		(947)	3,387	(2,571)
		4,954	\$ 5,495	\$ (8,630)

Derivatives in foreign exchange cash flow hedging relationships:

		<b>Amount of gain (loss) reclassified from other comprehensive income into income (expenses), net of tax (effective portion)</b>		
		<b>Year Ended December 31,</b>		
<b>Statements of income line item</b>		<b>2020</b>	<b>2019</b>	<b>2018</b>
Option contracts to hedge payroll and facility expenses	Cost of revenues and operating expenses	\$ (490)	\$ 320	\$ 66
Forward contracts to hedge payroll and facility expenses	Cost of revenues, operating expenses and financial expenses	(1,979)	(749)	4,715
		\$ (2,469)	\$ (429)	\$ 4,781

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 11:- LEASES**

The Company has entered into various non-cancelable operating lease agreements for certain of our office spaces and motor vehicles. The leases have original lease periods expiring between 2020 and 2037. The Company does not assume renewals in its determination of the lease term unless the renewals are considered as reasonably assured at lease commencement.

The operating lease cost for the year ended December 31, 2020 was \$23,086.

Supplemental cash flow information related to leases was as follows:

	Year ended December 31, 2020
Operating cash flows from operating leases	\$ 25,225
New right-of-use assets obtained in exchange for operating lease obligations	\$ 9,243

Maturities of lease liabilities were as follows:

	Operating Leases
2021	\$ 22,777
2022	21,076
2023	13,389
2024	10,968
2025	9,649
Thereafter	72,010
Total lease payments	149,869
Less imputed interest	(35,195)
Total	<u>\$ 114,674</u>

Supplemental balance sheet information related to leases was as follows:

	Year Ended December 31, 2020
Current maturities of operating leases	22,412
Long-term operating leases	92,262
Total operating lease liabilities	<u>\$ 114,674</u>
Weighted-average remaining operating lease term	10.17
Weighted-average discount rate of operating leases	5.23 %

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 12:- COMMITMENTS AND CONTINGENT LIABILITIES**

## a. Commitments:

The Company is also obligated under certain agreements with its suppliers to purchase licenses and hosting services. These non-cancelable obligations as of December 31, 2020 are \$114,251.

## b. Legal proceedings:

From time to time the Company or its subsidiaries may be involved in legal proceedings and/or litigation arising in the ordinary course of business. While the outcome of these matters cannot be predicted with certainty, the Company does not believe it will have a material effect on its consolidated financial position, results of operations, or cash flows.

## c. Bank Guarantees:

The Company obtained bank guarantees as of December 31, 2020 of \$4,129, primarily in connection with office lease agreements.

**NOTE 13:- TAXES ON INCOME**

## a. Israeli taxation:

## 1. Corporate tax:

Commencing 2012, NICE Ltd. and its Israeli subsidiary elected the Preferred Enterprise regime to apply under the Law for the Encouragement of Capital Investments (the "Investment Law"). The election is irrevocable. Under the Preferred Enterprise Regime, from 2015 through 2016, NICE Ltd. and its Israeli subsidiary's entire preferred income was subject to the tax rate of 16%.

In December 2016, the Israeli Knesset passed a number of changes to the Investments Law regimes. These changes came into law in May 2017, retroactively effective beginning January 1, 2017, upon the passing into law of Regulations promulgated by the Finance Ministry to implement the "Nexus Principles" based on OECD guidelines published as part of the Base Erosion and Profit Shifting (BEPS) project. Such Regulations provide rules for implementation of the new beneficial Preferred Technology Enterprise tax regime.

The Company believes it qualifies as a Preferred Technology Enterprise and accordingly is eligible for a tax rate of 12% on its preferred technology income, as defined in such regulations, beginning from tax year 2017 and onwards. The Company expects that it will continue to qualify as a Preferred Technology Enterprise in subsequent tax years.

Income not eligible for Preferred Enterprise or Preferred Technology Enterprise benefits is taxed at the regular corporate tax rate, which remains 23% in 2020 (23.0% in 2019 and 2018 as well).

Prior to 2012, most of NICE Ltd. and its Israeli subsidiary's income was exempt from tax or subject to reduced tax rates under the Investment Law. Upon distribution of exempt income, the distributing company was subject to reduced corporate tax rates ordinarily applicable to such income under the Investment Law. Currently, income subjected to a reduced tax rate under the Preferred Enterprise and Preferred Technology Enterprise Regime will be freely distributable as dividends, subject to a 20%

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

withholding tax (or lower, under an applicable tax treaty). However, upon the distribution of a dividend from such Preferred Income to an Israeli company, no withholding tax will be imposed

In September 2013, and pursuant to a temporary Israeli government tax relief, the Company made an election to pay reduced corporate tax on undistributed exempt income, generated under the Investment Law and accumulated by the company until December 31, 2011 and be entitled to distribute a dividend, without being required to pay additional corporate tax, from such income. NICE Ltd. duly released its and its Israeli subsidiary's tax-exempted income through 2011. In addition, under this election the Company was required to make and complete certain qualified investments in Israeli "industrial projects" (as defined in the Law), by December 31, 2018, which the Company believes it has done. In December 2020, in the context of a multi-year settlement with the Israeli Tax Authorities, the Israeli subsidiary paid a reduced corporate tax rate on its 2012 tax-exempted earnings. Further to the 2013 election and recent 2020 settlement, neither NICE Ltd. nor its Israeli subsidiary would have a tax liability upon future distributions of any previously tax-exempted earnings.

2. Foreign Exchange Regulations:

Under the Foreign Exchange Regulations, NICE Ltd. and its Israeli subsidiary calculate their tax liability in U.S. Dollars according to certain orders. The tax liability, as calculated in U.S. Dollars is translated into NIS according to the exchange rate as of December 31st of each year.

3. Tax benefits under the Israeli Law for the Encouragement of Industry (Taxation), 1969:

NICE Ltd. and its Israeli subsidiary believe they each currently qualify as an "Industrial Company" as defined by the above law and, as such, are entitled to certain tax benefits including deduction of public offering expenses in three equal annual installments and amortization of cost of purchased know-how and patents for tax purposes over 8 years.

b. Income taxes on non-Israeli subsidiaries:

Non-Israeli subsidiaries are taxed according to the tax laws in their respective country of residence. The Company's consolidated tax rate depends on the geographical mix of where its profits are earned. Primarily, in 2020, the Company's U.S. subsidiaries are subject to combined federal and state income taxes of approximately 25% and its subsidiaries in the U.K. and India are subject to corporation tax at a rate of approximately 19% and 17.5% respectively. Neither Israeli income taxes, foreign withholding taxes nor deferred income taxes were provided in relation to undistributed earnings of the Company's foreign subsidiaries. This is because the Company has the intent and ability to reinvest these earnings indefinitely in the foreign subsidiaries and therefore those earnings are continually redeployed in those jurisdictions. As of December 31, 2020, the amount of undistributed earnings of non-Israeli subsidiaries, which is considered indefinitely reinvested, was \$941,710 with a corresponding unrecognized deferred tax liability of \$124,742. If these earnings were distributed to Israel in the form of dividends or otherwise, the Company would be subject to additional Israeli income taxes, subject to an adjustment for foreign tax credits, and foreign withholding taxes.

c. U.S. Tax Reform:

On December 22, 2017, the United States enacted the Tax Cuts and Jobs Act (the "U.S. Tax Reform" or "TCJA"); a comprehensive tax legislation that includes significant changes to the taxation of business entities. These changes include several key tax provisions, among others: (i) a permanent reduction to the statutory federal corporate income tax rate from 35% to 21% effective for tax years beginning after December 31, 2017; (ii) a shift of the U.S. taxation of multinational corporations from a tax on worldwide income to a modified territorial system (along with certain new rules designed to prevent erosion of the U.S. income tax base - "BEAT"); (iii) establishing immediate deductions for certain new investments



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

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**U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

instead of deductions for depreciation expense over time, and modifying or repealing certain business deductions and credits; and (iv) providing a permanent deduction to corporations generating revenues from non-US markets (known as a deduction for foreign derived intangible income -“FDII”).

The final impact of the TCJA may differ due to, among other things, possible changes in the interpretations and assumptions made by the Company as a result of additional information, additional guidance or finalization of law and regulations, that will be issued by the U.S. Department of Treasury, the IRS or other standard-setting bodies, and which may impact the Company's future financial statements; and will be accounted for when such guidance is issued.

d. Net operating loss carryforward:

As of December 31, 2020, the Company and certain of its subsidiaries had tax loss carry-forwards totaling in aggregate approximately \$198,050 which can be carried forward and offset against taxable income. Approximately \$82,405 of these carry-forward tax losses have no expiration date, with the balance expiring between the years 2021 and 2037.

Utilization of U.S. net operating losses may be subject to substantial annual limitation due to the “change in ownership” provisions of the Internal Revenue Code of 1986 and similar state provisions. The annual limitation may result in the expiration of net operating losses before utilization.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

## e. Deferred tax assets and liabilities:

Deferred taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts recorded for tax purposes. Significant components of the Company's deferred tax assets and liabilities are as follows:

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Deferred tax assets:		
Net operating losses carryforward and tax credits	\$ 42,154	\$ 31,254
Intra-entity transfer of certain intangible assets (*)	20,734	18,798
Operating leases liabilities	24,286	24,398
Share based payments	20,330	19,017
Research and development costs	9,210	3,645
Reserves, allowances and other	46,943	31,090
Deferred tax assets before valuation allowance	163,657	128,202
Valuation allowance	(10,227)	(9,145)
Deferred tax assets	153,430	119,057
Deferred tax liabilities:		
Acquired intangibles	(81,320)	(87,711)
Operating lease right-of-use assets	(20,419)	(20,357)
Acquired deferred revenue	(1,785)	(760)
Internal use software and other fixed assets	(19,168)	(14,779)
Prepaid compensation expenses	(23,965)	(17,446)
Debt	(3,679)	—
Other	(2,468)	—
Deferred tax liabilities	(152,804)	(141,053)
Deferred tax assets (liabilities), net	\$ 626	\$ (21,996)

(\*) During the years ended December 31, 2020 and 2019, the Company completed intra-entity transfers of certain intangible assets to a different tax jurisdiction. As a result of the transfers, the Company utilized net operating losses carried forward, incurred a tax expense on capital gain, released valuation allowances and recorded a deferred tax asset.

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Deferred tax assets	\$ 32,735	\$ 30,513
Deferred tax liabilities	(32,109)	(52,509)
Deferred tax assets ( liabilities) , net	\$ 626	\$ (21,996)

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

The Company has provided valuation allowances in respect of certain deferred tax assets resulting from tax loss carry forwards and other reserves and allowances due to uncertainty concerning their realization.

f. A reconciliation of the Company's effective tax rate to the statutory tax rate in Israel is as follows:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Income before taxes on income, as reported in the consolidated statements of income	\$ 237,188	\$ 234,273	\$ 186,715
Statutory tax rate in Israel	23.0 %	23.0 %	23.0 %
Preferred Enterprise / Preferred Technology Enterprise benefits (*)	(3.8)%	(7.7)%	(13.0)%
Changes in valuation allowance	0.5 %	0.7	— %
Earnings taxed under foreign law	(0.5)%	17.9 %	(1.8)%
Tax settlements and other adjustments	(0.6)%	5.8 %	7.0 %
U.S. Tax Reform one-time adjustment	— %	— %	(1.6)
Intangible assets transfer	0.1 %	(14.2)%	— %
Other	(1.5)%	(4.9)%	1.1 %
Effective tax rate	17.2 %	20.6 %	14.7 %

(\*) The effect of the benefit resulting from the "Preferred Enterprise/Preferred Technology Enterprise benefits" status on net earnings per ordinary share is as follows:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Basic	\$ 0.15	\$ 0.29	\$ 0.39
Diluted	\$ 0.14	\$ 0.28	\$ 0.38

g. Income before taxes on income is comprised as follows:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Domestic	\$ 87,008	\$ 169,236	\$ 193,664
Foreign	150,180	65,037	(6,949)
	\$ 237,188	\$ 234,273	\$ 186,715

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

h. Taxes on income (tax benefit) are comprised as follows:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Current	\$ 74,096	\$ 60,586	\$ 57,549
Deferred	(33,254)	(12,217)	(30,172)
	<u>40,842</u>	<u>48,369</u>	<u>27,377</u>
Domestic	15,995	8,614	29,947
Foreign	24,847	39,755	(2,570)
	<u>\$ 40,842</u>	<u>\$ 48,369</u>	<u>\$ 27,377</u>
Of which:			
	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Domestic taxes:			
Current	\$ 22,323	\$ 29,075	\$ 34,370
Deferred	(6,328)	(20,461)	(4,423)
	<u>15,995</u>	<u>8,614</u>	<u>29,947</u>
Foreign taxes:			
Current	51,773	31,196	23,179
Deferred	(26,926)	8,559	(25,749)
	<u>24,847</u>	<u>39,755</u>	<u>(2,570)</u>
Taxes on income	<u>\$ 40,842</u>	<u>\$ 48,369</u>	<u>\$ 27,377</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 13:- TAXES ON INCOME (Cont.)**

## i. Uncertain tax positions:

A reconciliation of the beginning and ending balances of the total amounts of uncertain tax position is as follows:

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Uncertain tax positions, beginning of year	\$ 64,884	\$ 58,560
Increases/(Decreases) in tax positions for prior years	6,456	(3,443)
Increases in tax positions for current year	6,935	15,749
Settlements	(378)	—
Expiry of the statute of limitations	(4,641)	(5,982)
Uncertain tax positions, end of year	<u>\$ 73,256</u>	<u>\$ 64,884</u>

The Company accrued \$8,453 and \$3,889 due to interest and penalties related to uncertain tax positions as of December 31, 2020 and 2019 respectively.

During the course of 2019, upon receipt of an information letter, the Company's United Kingdom Subsidiary Group elected to register for the United Kingdom Profits Diversion Compliance Facility, covering the years 2015-2018. NICE Ltd. is currently in the process of routine Israeli income tax audits for the tax years 2014 through 2018 (refer to note 18). In December 2020, the Israeli Subsidiary concluded a multi-year settlement encompassing tax years 2015-2019. As of December 31, 2020, U.S. federal income tax returns filed by the Company's US subsidiaries for the tax years prior to 2016 are no longer subject to general audit. To the extent the Company or its subsidiaries generated net operating losses or tax credits in closed tax years, future use of the net operating loss or tax credit carry forward balance would be subject to examination within the relevant statute of limitations for the year in which it was utilized. The Company and its subsidiaries are still subject to other income tax audits for the tax years of 2012 through 2019.

**NOTE 14:- SHAREHOLDERS' EQUITY**

- a. The Ordinary shares of the Company are traded on the Tel-Aviv Stock Exchange and its American Depositary Shares ("ADSs"), each representing one fully paid ordinary share, par value NIS 1.00 per share of the Company, are traded on NASDAQ.

- b. Share option plans:

## 2008 and 2016 Share Incentive Plan

In June 2008 the Company adopted the 2008 Share Incentive Plan (the "2008 Plan") and in February 2016 the Company adopted the 2016 Share Incentive Plan (the "2016 Plan," and together with the 2008 Plan, the "Plans"). The Company adopted the Plans to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve the Company's profitability.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 14:- SHAREHOLDERS' EQUITY (Cont.)**

Under each of the Plans, the Company's employees, directors, consultants and/or contractors may be granted any equity-related award, including: any type of an option to acquire the Company ordinary shares; share appreciation right; share and/or restricted share award ("RSA"); restricted stock unit ("RSU") and/or other share unit; and/or other share-based award and/or other right or benefit under the Plans, including any such equity-related award that is a performance-based award (each an "Award"). In regard to the 2008 Plan, please see the discussion below regarding performance-based awards beginning calendar year 2014.

Generally, under the terms of the Plans, unless determined otherwise by the administrator of the Plans, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Specifically with respect to RSUs and options granted with an exercise price equal to the nominal value of an ordinary share ("par value options"), unless determined otherwise by the Board of Directors, 25% of the RSUs and the par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant.

Certain executive officers are entitled to acceleration of vesting of Awards in the event of a change of control, subject to certain conditions. Awards with a vesting period expire six years after the date of grant. Pursuant to a resolution of the Company's Board of Directors dated February 4, 2014, options that are performance-based and that were granted during calendar year 2014 and thereafter shall expire seven years following the date of grant. The maximum number of shares that may be subject to Awards granted under each of the Plans is calculated each calendar year as 3% of the Company's issued and outstanding share capital as of December 31 of the preceding calendar year (pursuant to an amendment of the 2016 Plan approved by the Board of Directors on October 2, 2019). Such amount is reset for each calendar year. Awards are non-transferable except by will or the laws of descent and distribution.

Options granted under such plans are granted at an exercise price equal to the average of the closing prices of one ADR as quoted on the NASDAQ market during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the Plans (including par value options in some cases).

The Company's Board of Directors also adopted an addendum to the Plans for Awards granted to residents of Israel (the "Addendum") and resolved to elect the "Capital Gains Route" (as defined in Section 102(b)(2)) of the Israeli Income Tax Ordinance-5721-1961 ("Tax Ordinance") for the grant of Awards to Israeli grantees. There is also a U.S. addendum under each of the Plans that applies to non-qualified stock options for purposes of U.S. tax laws.

During 2020, the Company granted 843,926 options and restricted share units under the 2016 Plan (which constituted 1.35% of the Company issued and outstanding share capital as of December 31, 2019).

Pursuant to the terms of the acquisitions of, Nexidia, inContact Mattersight and Guardian Analytics, the Company assumed or replaced unvested options, RSAs and RSUs and converted them or replaced them with the Company's options, RSAs and RSUs, as applicable, based on an agreed exchange ratio. Each assumed or replaced option, RSA and RSU is subject to the same terms and conditions, including vesting, exercisability and expiration, as originally applied to any such option, RSA and RSU immediately prior to the acquisition.

The fair value of the Company's stock options granted to employees and directors for the years ended December 31, 2020, 2019 and 2018 was estimated using the following assumptions:

	<b>2020</b>	<b>2019</b>	<b>2018</b>
Expected volatility	0.00%-25.79%	19.44%-21.54%	21.23%-21.83%
Risk free interest rate	0.00%-0.86%	1.43%-2.55%	2.42%-3.04%
Expected dividend	\$ —	—	—
Expected term (in years)	3.5	3.5	3.5

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 14:- SHAREHOLDERS' EQUITY (Cont.)**

A summary of the Company's stock options activity and related information for the year ended December 31, 2020, is as follows:

	Number of options	Weighted- average exercise price	Weighted- average remaining contractual term (in years)	Aggregate intrinsic value
Outstanding at January 1, 2020	1,109,436	22.16	4.35	147,553
Granted	271,841	25.64		
Exercised	340,183	25.59		
Cancelled	6,286	65.17		
Forfeited	46,434	4.53		
Outstanding at December 31, 2020	<u>988,374</u>	<u>22.49</u>	<u>4.26</u>	<u>258,014</u>
Exercisable at December 31, 2020	<u>361,923</u>	<u>45.88</u>	<u>3.14</u>	<u>86,013</u>

The weighted-average grant-date fair value of options granted during the years 2020, 2019 and 2018 was \$192.44, \$121.21 and \$89.54, respectively.

The total intrinsic value of options exercised and restricted shares vested during the years 2020, 2019 and 2018 was \$180,234; \$87,872 and \$68,749, respectively.

The options outstanding under the Company's stock option plans as of December 31, 2020 have been separated into ranges of exercise price as follows:

Ranges of exercise price	Options outstanding as of December 31, 2020	Weighted average remaining contractual term (Years)	Weighted average exercise price \$	Options Exercisable as of December 31, 2020	Weighted average exercise price of options exercisable \$
\$ 0.27 - 0.31	795,386.0	4.43	0.28	198,953.0	0.3
\$ 6.72 - 8.57	2,309.0	3.31	6.99	2,309.0	7.0
\$ 20.44- 24.99	3,606.0	7.01	22.07	942.0	21.6
\$ 37.21 - 54.51	8,115.0	5.26	43.97	6,386.0	41.1
\$ 57.10 - 85.14	77,210.0	1.82	71.87	74,026.0	71.3
\$ 96.74	29,050.0	3.37	96.74	29,050.0	96.7
\$ 151.63 - 224.18	72,698.0	5.12	181.49	50,257.0	162.4
	<u>988,374</u>	<u>4.26</u>	<u>22.49</u>	<u>361,923</u>	<u>45.88</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 14:- SHAREHOLDERS' EQUITY (Cont.)**

A summary of the Company's RSU and the Company's RSA activities and related information for the year ended December 31, 2020, is as follows:

	<b>Number of RSU and RSA (*)</b>
Outstanding at January 1, 2020	1,537,049
Granted	572,085
Vested	(575,527)
Forfeited	(3,546)
Outstanding at December 31, 2020	<u>1,463,687</u>

(\*) NIS 1 par value which represents approximately \$0.31

As of December 31, 2020, the total compensation cost related to nonvested awards not yet recognized was approximately \$178,994, which is expected to be recognized over a period of up to four years.

The total equity-based compensation expense related to all of the Company's equity-based awards, recognized for the years ended December 31, 2020, 2019 and 2018, was comprised as follows:

	<b>Year ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Cost of revenues	\$ 11,313	\$ 11,244	\$ 11,000
Research and development, net	13,668	9,239	7,363
Selling and marketing	30,262	26,650	27,455
General and administrative	48,221	34,897	21,405
Total stock-based compensation expenses	<u>\$ 103,464</u>	<u>\$ 82,030</u>	<u>\$ 67,223</u>

c. Treasury shares:

On January 10, 2017, the Company's Board of Directors authorized a program to repurchase up to \$150,000 of the Company's issued and outstanding ordinary shares and ADRs. This share repurchase program commenced on April 7, 2017. On February 12, 2020, the Company's Board of Directors authorized an additional program to repurchase up to \$200,000 of the Company's issued and outstanding ordinary shares and ADRs, following completion of the program approved in 2017. Repurchases may be made from time to time in the open market or in privately negotiated transactions in accordance with applicable securities laws and regulations. The timing and amount of the repurchase transactions will be determined by the



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 14:- SHAREHOLDERS' EQUITY (Cont.)**

Company's management and may depend on a variety of factors including market conditions, alternative investment opportunities and other considerations.

These programs do not obligate the Company to acquire any particular amount of ordinary shares and ADRs and each program may be modified or discontinued at any time without prior notice.

**NOTE 15:- DEBT***Loan and revolving Credit Agreement*

In 2016, the Company entered into a Credit Agreement with certain lenders, according to which the following credit facilities were issued: 1) a loan of \$475,000, and 2) a revolving credit loan of up to \$75,000.

in January 2017, the Company prepaid a principal amount of \$260,000 which resulted in \$5,300 amortization of debt issuance costs. In November 2020, the Company prepaid the remaining principal amount of \$215,000, which resulted in \$725 amortization of debt issuance costs.

The loan bore interest through maturity at a variable rate based upon, at the Company's option every interest period, either (a) the LIBOR rate for Eurocurrency borrowing or (b) an Alternate Base Rate ("ABR"), which is the highest of (i) the administrative agent's prime rate, (ii) one-half of 1.00% in excess of the overnight U.S. Federal Funds rate, and (iii) 1.00% in excess of the one-month LIBOR), plus in each case, an applicable margin. The applicable margin for Eurocurrency loans ranges, based on the applicable total net leverage ratio, from 1.25% to 2.00% per annum and the applicable margin for ABR loans ranges, based on the applicable total net leverage ratio, from 0.25% to 1.00% per annum.

Debt issuance costs of \$10,158 attributable to the loan were amortized as interest expense over the contractual term of the loan using the effective interest rate.

The carrying values of the liability's components are reflected in the Company's accompanying consolidated balance sheets as follows:

	<b>December 31,</b>
	<b>2019</b>
Principal	\$ 215,000
Less: Debt issuance costs, net of amortization	(1,687)
Net liability carrying amount	<u>\$ 213,313</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 15:- DEBT (Cont.)**

Interest expense related to the liability is reflected on the accompanying consolidated statements of income for the years ended:

	December 31,		
	2020	2019	2018
Amortization of debt issuance costs	\$ 1,687	\$ 1,004	\$ 794
Interest expense	3,848	7,676	\$ 7,083
Total interest expense recognized	<u>\$ 5,535</u>	<u>\$ 8,680</u>	<u>\$ 7,877</u>
Effective interest rate	<u>2.11 %</u>	<u>4.01 %</u>	<u>3.80 %</u>

Pursuant to the Credit Agreement, the Company was also granted a revolving credit facility that entitled the Company to borrow up to \$75,000 through December 2021 with interest payable on the borrowed amount set at the same terms as the term loan, as well as a quarterly commitment fee on unfunded amounts ranging from 0.25% to 0.5%, subject to the achievement of certain leverage levels.

Debt issuance costs of \$1,667 attributable to the revolving credit loan were capitalized and amortized as interest expense over the contractual term of the agreement on a straight-line basis. Following the Loan prepayment in November 2020 (as mentioned above), the Credit Agreement was terminated, resulting in the recognition of the remaining \$325 amortization of Credit Agreement issuance costs.

*Exchangeable Senior Notes and Hedging Transactions**2017 Notes*

In January 2017, the Company issued \$287,500 aggregate principal amount of exchangeable senior notes (the "2017 Notes") due 2024.

In the event that the last reported sale price of the company's ADS for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the exchange price ("Share Price Condition") or in the event of the satisfaction of certain other conditions, during set periods, as defined in the indenture governing the Notes, the holders of the exchangeable Senior Notes will have the option to exchange the Notes for (i) cash, (ii) ADSs or (iii) a combination thereof, at the Company's election.

As of December 31, 2020 and 2019, the 2017 notes Share Price Condition was triggered and accordingly, the net carrying amount of these Notes was presented in current liabilities.

The Company may provide additional ADSs upon conversion if there is a "Make-Whole Fundamental Change" in the business as defined in the indenture governing the Notes. The Notes are not redeemable by the Company prior to the maturity date apart from certain cases as set forth in the indenture governing the notes. The Company's intention and ability is to settle the 2017 notes in cash.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 15:- DEBT (Cont.)**

Debt issuance costs of \$5,791 attributable to the 2017 Notes are amortized as interest expense over the contractual term of the notes using the effective interest rate.

Interest is payable on the debentures semi-annually at the cash coupon rate; however, the remaining debt discount is being amortized as additional non-cash interest expense using an effective annual interest rate equal to the Company's estimated nonconvertible debt borrowing rate at the time of issuance.

*2020 Notes*

In August 2020, the Company issued \$460,000 aggregate principal amount of Exchangeable Senior Notes (the "2020 Notes" and together with the 2017 Notes, the "Notes") due 2025.

In the event that the last reported sale price of the Company's ADS for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the Exchange Price ("Share Price Condition") or in the event of the satisfaction of certain other conditions, during set periods, set forth in the indenture governing the Notes, the holders of the exchangeable Senior Notes will have the option to exchange the Notes for (i) cash, (ii) ADSs or (iii) a combination thereof, at the Company's election.

The Notes are redeemable by the Company on or after September 21, 2023 upon the fulfillment of the Share Price Condition for (i) cash, (ii) ADSs or (iii) a combination thereof, at the Company's election, apart from certain cases as set forth in the indenture governing the Notes. The Company's intention and ability is to settle the principal amount of the 2020 notes in cash.

The 2020 Notes do not bear regular interest, however, the remaining debt discount is being amortized as additional non-cash interest expense using an effective annual interest rate equal to the Company's estimated nonconvertible debt borrowing rate at the time of issuance.

Debt issuance costs of \$7,952 attributable to the 2020 notes are amortized as interest expense over the contractual term of the Notes using the effective interest rate.

The Company may provide additional ADSs upon conversion if there is a "Make-Whole Fundamental Change" in the business as defined in the indenture governing the Notes.

The following table summarizes some key facts and terms regarding the outstanding Notes:

	<b>Due 2025</b>	<b>Due 2024</b>
Issuance date	August 27, 2020	January 18, 2017
Maturity date	September 15, 2025	January 15, 2024
Effective conversion date	June 15, 2025	September 15, 2023
Principal amount	\$460,000	\$287,495
Cash coupon rate (per annum)	—%	1.25%
Conversion rate effective (per \$1000 principal amount)	3.34	12.05
Effective conversion price effective (per ADS)	\$299.19	\$83.15

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 15:- DEBT (Cont.)**

The carrying values of the liability and equity components of the Notes are reflected in the Company's accompanying consolidated balance sheets as follows:

	<b>Year Ended 2020 Notes December 31,</b>	<b>2017 Notes December 31,</b>	
	<b>2020</b>	<b>2020</b>	<b>2019</b>
Principal	\$ 460,000	\$ 287,495	\$ 287,500
Less:			
Debt issuance costs, net of amortization	(7,460)	(2,914)	(3,735)
Unamortized discount	(31,203)	(24,700)	(32,182)
Net liability carrying amount	421,337	259,881	\$ 251,583
Equity component - net carrying value	\$ 32,746	\$ 51,176	\$ 51,176

As of December 31, 2020, the estimated fair value of the 2017 notes and the 2020 notes which the Company has classified as Level 2 financial instruments are \$933,695 (\$548,984 as of December 31, 2019) and \$520,485, respectively.

The estimated fair value was determined based on the quoted bid price of the Exchangeable Senior Notes in an over-the-counter market on the last trading day of the reporting period. As of December 31, 2020, the difference between the net carrying amount of the Exchangeable Senior Notes and estimated fair value represents the equity conversion value premium the market assigned to this Notes. Based on the closing price of our common stock on December 31, 2020, the if-converted value of the Exchangeable Senior Notes exceeded the principal amount.

Interest expense related to the Notes is reflected on the accompanying consolidated statements of income as follows:

	<b>2020 Notes Year Ended December 31,</b>	<b>2017 Notes Year Ended December 31,</b>		
	<b>2020</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Amortization of debt issuance costs	\$ 492	\$ 820	\$ 753	\$ 694
Non-cash amortization of debt discount	2,165	7,483	7,153	6,855
Interest expense	—	3,594	3,594	3,594
Total interest expense recognized	\$ 2,657	\$ 11,897	\$ 11,500	\$ 11,143
Effective interest rate	1.87 %	4.68 %	4.68 %	4.68 %

*Exchangeable notes hedge transactions*

In connection with the pricing of the 2017 Notes, the Company has entered into privately negotiated exchangeable note hedge transactions with some of the initial purchasers and/or their respective affiliates (the "Option Counterparties").

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 15:- DEBT (Cont.)**

Subject to customary anti-dilution adjustments substantially similar to those applicable to the Notes, the exchangeable note hedge transactions cover the number of ADSs that will initially underline the Notes.

The note hedge transactions are expected generally to reduce potential dilution to the ADSs and/or cash payments the Company is required to make in excess of the principal amount, in each case, upon any exchange of the Notes.

A portion of the call-options can be settled upon a surrender of the same amounts of Notes by a holder. Settlement can be done in cash, ADSs or a combination of both, at the Company's election.

Concurrently with the Company's entry into the exchangeable note hedge transactions, the Company has entered into warrant transactions with the Option Counterparties relating to the same number of ADSs (3,457,475), with a strike price of \$101.82 per ADS, subject to customary anti-dilution adjustments.

The warrants are exercisable for a period of three months as of the notes maturity date.

U.S. GAAP requires measuring such transactions as equity components. The Company recorded a net decrease of \$20,281 in additional paid-in capital in 2017 at the initiation of the transaction.

**NOTE 16:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION**

## a. Reportable segments:

ASC 280, "Segment Reporting," establishes standards for reporting information about operating segments. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is its Chief Executive Officer.

	<b>Year ended December 31, 2020</b>			
	<b>Customer Engagement (1)</b>	<b>Financial Crime and Compliance (2)</b>	<b>Not allocated</b>	<b>Total</b>
Revenues	\$ 1,347,511	\$ 300,505	\$ —	\$ 1,648,016
Operating income	\$ 268,010	\$ 93,272	\$ (119,235)	\$ 242,047
	<b>Year ended December 31, 2019</b>			
	<b>Customer Engagement (1)</b>	<b>Financial Crime and Compliance</b>	<b>Not allocated</b>	<b>Total</b>
Revenues	\$ 1,265,113	\$ 308,799	\$ —	\$ 1,573,912
Operating income	\$ 244,599	\$ 124,742	\$ (130,624)	\$ 238,717

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 16:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION (Cont.)**

	<b>Year ended December 31, 2018</b>			
	<b>Customer Engagement (1)</b>	<b>Financial Crime and Compliance</b>	<b>Not allocated</b>	<b>Total</b>
Revenues	\$ 1,156,142	\$ 288,377	\$ —	\$ 1,444,519
Operating income	\$ 217,796	\$ 109,464	\$ (129,644)	\$ 197,616

(1) Includes the results of companies which were acquired in the years 2020, 2019 and 2018 and are being integrated within the Customer Engagement segment.

(2) Includes the results of companies which were acquired in the years 2020, and are being integrated within the Financial Crime and Compliance segment.

The following table presents property and equipment as of December 31, 2020 and 2019, based on operational segments:

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Customer Engagement	\$ 120,955	\$ 126,538
Financial Crime and Compliance	15,433	12,437
Non-allocated	1,397	2,672
	<u>137,785</u>	<u>\$ 141,647</u>

## b. Geographical information:

Total revenues from external customers on the basis of the Company's geographical areas are as follows:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Americas, principally the US	\$ 1,353,278	\$ 1,234,549	\$ 1,123,866
EMEA (*)	180,177	212,252	202,521
Israel	4,368	3,950	4,402
Asia Pacific	110,193	123,161	113,730
	<u>1,648,016</u>	<u>\$ 1,573,912</u>	<u>\$ 1,444,519</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 16:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION (Cont.)**

The following presents property and equipment as of December 31, 2020 and 2019, based on geographical areas:

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Americas, principally the US	\$ 72,083	\$ 78,911
EMEA (*)	4,340	3,886
Israel	54,097	51,011
Asia Pacific	7,265	7,839
	<u>\$ 137,785</u>	<u>\$ 141,647</u>

(\*) Includes Europe, the Middle East (excluding Israel) and Africa.

**NOTE 17:- SELECTED STATEMENTS OF INCOME DATA**

a. Research and development, net:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Total costs	\$ 261,105	\$ 232,118	\$ 218,226
Less - grants and participations	(2,347)	(2,556)	(2,171)
Less - capitalization of software development costs	(40,576)	(35,844)	(32,225)
	<u>\$ 218,182</u>	<u>\$ 193,718</u>	<u>\$ 183,830</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

U.S. dollars in thousands (except share and per share data)

**NOTE 17:- SELECTED STATEMENTS OF INCOME DATA (Cont.)**

## b. Financial expenses and other, net:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Financial income:			
Interest and amortization/accretion of premium/discount on marketable securities, net	\$ 17,596	\$ 16,678	\$ 7,521
Interest	1,543	3,855	3,778
	<u>19,139</u>	<u>20,533</u>	<u>11,299</u>
Financial expenses:			
Interest	(7,770)	(11,683)	(11,204)
Debt issuance costs amortization	(3,650)	(2,083)	(1,813)
Exchangeable Senior Notes amortization of discount	(9,648)	(7,153)	(6,855)
Exchange rates differences	(41)	(1,832)	(430)
Other	(2,731)	(2,186)	(1,936)
	<u>(23,840)</u>	<u>(24,937)</u>	<u>(22,238)</u>
Other (expenses) Income, net	(158)	(40)	38
	<u>\$ (4,859)</u>	<u>\$ (4,444)</u>	<u>\$ (10,901)</u>

## c. Net earnings per share:

The following table sets forth the computation of basic and diluted net earnings per share:

## 1. Numerator:

	<b>Year Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Net income to ordinary shareholders	\$ 196,346	\$ 185,904	\$ 159,338



**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****U.S. dollars in thousands (except share and per share data)****NOTE 17:- SELECTED STATEMENTS OF INCOME DATA (Cont.)**

2. Denominator (in thousands):

	Year Ended December 31,		
	2020	2019	2018
Denominator for basic net earnings per share:			
Weighted average number of shares	62,710	62,120	61,387
Effect of dilutive securities:			
Add - employee stock options and RSU	1,611	1,682	1,785
Warrants issued in the exchangeable notes transaction	1,635	859	137
Denominator for diluted net earnings per share - adjusted weighted average shares	\$ 65,956	\$ 64,661	\$ 63,309

**NOTE 18:- SUBSEQUENT EVENTS**

During January, February and March 2021, the Company received formal requests to exchange 2017 Notes in an aggregated principal amount of \$82,819. See Note 15 for further information regarding the 2017 Notes. The Company intends to settle all these requests in cash, during the second quarter of 2021.

On February 25, 2021, NICE Ltd received an Order of Final Assessment for the 2014 tax year, in the sum of \$16,000, from the Israeli Tax Authorities. NICE Ltd has sufficiently provided for what it believes will be the final settlement within our provision for income taxes and our tax estimates.

## SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

**NICE LTD.**

By: /s/ Barak Eilam

\_\_\_\_\_

Barak Eilam

Chief Executive Officer

Date: March 23, 2021

Execution Version

NICE LTD.

AND

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

INDENTURE

Dated as of August 27, 2020

0% Convertible Senior Notes due 2025

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**EXHIBIT**

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INDENTURE dated as of August 27, 2020 between NICE LTD., an Israeli corporation, as issuer (the “**Company**,” as more fully set forth in Section 1.01) and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee (the “**Trustee**,” as more fully set forth in Section 1.01).

W I T N E S S E T H:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issuance of its 0% Convertible Senior Notes due 2025 (the “**Notes**”), initially in an aggregate principal amount not to exceed \$400,000,000 (as increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the Initial Purchasers pursuant to the exercise of their option to purchase additional Notes as set forth in the Purchase Agreement), and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Conversion, the Form of Fundamental Change Repurchase Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee or a duly authorized authenticating agent, as in this Indenture provided, the valid, binding and legal obligations of the Company, and this Indenture a valid agreement according to its terms, have been done and performed, and the execution of this Indenture and the issuance hereunder of the Notes have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders thereof, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Notes (except as otherwise provided below), as follows:

ARTICLE 1  
DEFINITIONS

Section 1.01. *Definitions.* The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words “herein,” “hereof,” “hereunder” and words of similar import

refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article include the plural as well as the singular.

“**Additional ADSs**” shall have the meaning specified in Section 14.03(a).

“**Additional Amounts**” shall have the meaning set forth in Section 4.10(a).

“**ADS**” means an American Depositary Share, issued pursuant to the relevant Deposit Agreement, representing one Ordinary Share of the Company as of the date of this Indenture.

“**ADS Custodian**” means Tel Aviv office of Bank Leumi Le-Israel Ltd., with respect to the ADSs delivered pursuant to the relevant Deposit Agreement, or any successor entity thereto.

“**ADS Depository**” means JPMorgan Chase Bank, N.A., as depository for the ADSs, or any successor entity thereto.

“**ADS Price**” shall have the meaning specified in Section 14.03(c).

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control,” when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing. Notwithstanding anything to the contrary herein, the determination of whether one Person is an “**Affiliate**” of another Person for purposes of this Indenture shall be made based on the facts at the time such determination is made or required to be made, as the case may be, hereunder.

“**Agents**” means the Paying Agent, the Note Registrar and the Conversion Agent.

“**Bankruptcy Law**” means Title 11, U.S. Code, as amended, or any similar federal, state or foreign law for the relief of debtors.

“**Bid Solicitation Agent**” means the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 14.01(b)(i). The Company shall initially act as the Bid Solicitation Agent.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act for it hereunder.

“**Board Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“**Business Day**” means, with respect to any Note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by

law or executive order to close or be closed; *provided* that, solely for purposes of Section 14.02(c), if Physical Settlement or Combination Settlement applies, “Business Day” shall also not include days on which banking institutions in Israel are authorized or obligated by law or executive order to close or to be closed.

“**Capital Stock**” means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

“**Cash Settlement**” shall have the meaning specified in Section 14.02(a).

“**Change in Tax Law**” shall have the meaning specified in Section 16.01(a)(ii).

“**Clause A Distribution**” shall have the meaning specified in Section 14.04(c).

“**Clause B Distribution**” shall have the meaning specified in Section 14.04(c).

“**Clause C Distribution**” shall have the meaning specified in Section 14.04(c).

“**close of business**” means 5:00 p.m. (New York City time).

“**Combination Settlement**” shall have the meaning specified in Section 14.02(a).

“**Commission**” means the U.S. Securities and Exchange Commission.

“**Common Equity**” of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

“**Company**” shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 11, shall include its successors and assigns.

“**Company Order**” means a written order of the Company, signed by any two Officers and delivered to the Trustee.

“**Conversion Agent**” shall have the meaning specified in Section 4.02.

“**Conversion Date**” shall have the meaning specified in Section 14.02(c).

“**Conversion Obligation**” shall have the meaning specified in Section 14.01(a).

“**Conversion Price**” means as of any time, \$1,000, *divided by* the Conversion Rate as of such time.

“**Conversion Rate**” shall have the meaning specified in Section 14.01(a).

**“Corporate Trust Office”** means the designated office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at U.S. Bank National Association, 333 Commerce Street, Suite 800, , Nashville, Tennessee 37201, Attention: Corporate Trust Department, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor trustee (or such other address as such successor trustee may designate from time to time by notice to the Holders and the Company).

**“Custodian”** means the Trustee, as custodian for The Depository Trust Company, with respect to the Global Notes, or any successor entity thereto.

**“Daily Conversion Value”** means, for each of the 40 consecutive Trading Days during the Observation Period, 2.5% of the product of (a) the Conversion Rate on such Trading Day and (b) the Daily VWAP for such Trading Day.

**“Daily Measurement Value”** means the Specified Dollar Amount (if any), *divided by* 40.

**“Daily Settlement Amount,”** for each of the 40 consecutive Trading Days during the Observation Period, shall consist of:

(a) cash in an amount equal to the lesser of (i) the Daily Measurement Value and (ii) the Daily Conversion Value on such Trading Day; and

(b) if the Daily Conversion Value on such Trading Day exceeds the Daily Measurement Value, a number of ADSs equal to (i) the difference between the Daily Conversion Value and the Daily Measurement Value, *divided by* (ii) the Daily VWAP for such Trading Day.

**“Daily VWAP”** means, for each of the 40 consecutive Trading Days during the relevant Observation Period, the per ADS volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg page “NICE <equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the market value of one ADS on such Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company). The **“Daily VWAP”** shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

**“Default”** means any event that is, or after notice or passage of time, or both, would be, an Event of Default.

**“Default Settlement Method”** shall have the meaning specified in Section 14.02(a)(iii)(A).

“**Defaulted Amounts**” means any amounts on any Note (including, without limitation, the Redemption Price, the Fundamental Change Repurchase Price, principal and Special Interest, if any) that are payable but are not punctually paid or duly provided for.

“**delivered**” with respect to any notice to be delivered, given or mailed to a Holder pursuant to this Indenture, shall mean notice (x) given to the Depositary (or its designee) pursuant to the standing instructions from the Depositary or its designee, including by electronic mail in accordance with accepted practices or procedures at the Depositary (in the case of a Global Note) or (y) mailed to such Holder by first class mail, postage prepaid, at its address as it appears on the Note Register, in each case in accordance with Section 18.03. Notice so “delivered” shall be deemed to include any notice to be “mailed” or “given,” as applicable, under this Indenture.

“**Depositary**” means, with respect to each Global Note, the Person specified in Section 2.05(c) as the Depositary with respect to such Notes, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, “**Depositary**” shall mean or include such successor.

“**Deposit Agreements**” means the Restricted Deposit Agreement and the Unrestricted Deposit Agreement.

“**Distributed Property**” shall have the meaning specified in Section 14.04(c).

“**Effective Date**” shall have the meaning specified in Section 14.03(c), except that, as used in Section 14.04 and Section 14.05, “**Effective Date**” means the first date on which the ADSs trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

“**Event of Default**” shall have the meaning specified in Section 6.01.

“**Ex-Dividend Date**” means the first date on which the ADSs trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of the ADSs on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**Exchange in Lieu of Conversion**” shall having the meaning specified in Section 14.12.

“**Exempted Fundamental Change**” means a Fundamental Change that satisfies each of the conditions set forth in Section 15.02(f).

“**Expiring Rights**” means any rights, options or warrants to purchase Ordinary Shares or ADSs that expire on or prior to the Maturity Date.

“**FATCA**” shall have the meaning set forth in Section 4.10(a)(i)(D).

“**Form of Assignment and Transfer**” means the “Form of Assignment and Transfer” attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

“**Form of Fundamental Change Repurchase Notice**” means the “Form of Fundamental Change Repurchase Notice” attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

“**Form of Note**” means the “Form of Note” attached hereto as Exhibit A.

“**Form of Notice of Conversion**” means the “Form of Notice of Conversion” attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

“**Fractional ADS**” shall have the meaning specified in Section 14.02(a).

“**Fundamental Change**” shall be deemed to have occurred at the time after the Notes are originally issued if any of the following occurs:

(a) a “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than the Company, its Wholly Owned Subsidiaries and the employee benefit plans of the Company and its Wholly Owned Subsidiaries, files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of Ordinary Shares (including the Ordinary Shares held in the form of ADSs) representing more than 50% of the voting power of the Ordinary Shares;

(b) the consummation of (A) any recapitalization, reclassification or change of the Ordinary Shares or the ADSs (other than changes resulting from a subdivision or combination) as a result of which the Ordinary Shares or the ADSs would be converted into, or exchanged for, stock, other securities, other property or assets; (B) any share exchange, consolidation or merger or statutory scheme of arrangement of the Company pursuant to which the Ordinary Shares or the ADSs will be converted into cash, securities or other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one of the Company’s Wholly Owned Subsidiaries; *provided, however*, that a transaction described in clause (A) or (B) in which the holders of all classes of the Company’s Common Equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of Common Equity of the continuing or surviving corporation or transferee or the direct or indirect parent thereof immediately after such transaction in substantially the same proportions vis-à-vis each other as such ownership immediately prior to such transaction shall not be a Fundamental Change pursuant to this clause (b);

(c) the shareholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or

(d) the ADSs (or other Common Equity or ADSs in respect of the Common Equity underlying the Notes) cease to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors);

*provided, however,* that a transaction or transactions described in clause (a) or clause (b) above shall not constitute a Fundamental Change, if at least 90% of the consideration received or to be received by holders of the ADSs, excluding cash payments for Fractional ADSs and cash payments made in respect of dissenters' statutory appraisal rights, in connection with such transaction or transactions consists of shares of Common Equity or ADSs in respect of Common Equity that are listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions the Notes become convertible into such consideration, excluding cash payments for Fractional ADSs and cash payments made in respect of dissenters' statutory appraisal rights (subject to the provisions of Section 14.02(a)). If any transaction in which the Ordinary Shares of the ADSs are replaced by the securities of another entity occurs, following completion of any related Make-Whole Fundamental Change Period (or, in the case of a transaction that would have been a Fundamental Change or a Make-Whole Fundamental Change but for the proviso immediately following clause (d) of this definition, following the effective date of such transaction), references to the Company in this definition shall instead be references to such other entity. For purposes of this definition of "Fundamental Change", any transaction that constitutes a Fundamental Change pursuant to both clause (a) and clause (b) of this definition (whether or not the proviso to clause (b) applies to such transaction) shall be deemed a Fundamental Change solely under clause (b) of this definition (subject to the proviso therein).

**"Fundamental Change Company Notice"** shall have the meaning specified in Section 15.02(c).

**"Fundamental Change Repurchase Date"** shall have the meaning specified in Section 15.02(a).

**"Fundamental Change Repurchase Notice"** shall have the meaning specified in Section 15.02(b)(i).

**"Fundamental Change Repurchase Price"** shall have the meaning specified in Section 15.02(a).

**"Global Note"** shall have the meaning specified in Section 2.05(b).

**"Holder,"** as applied to any Note, or other similar terms (but excluding the term "beneficial owner"), means any Person in whose name at the time a particular Note is registered on the Note Register.

**"Indenture"** means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

“**Initial Purchasers**” shall have the meaning set forth in the Purchase Agreement.

“**Last Reported Sale Price**” of the ADSs on any date means the closing sale price (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) per ADS on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the ADSs are traded. If the ADSs are not listed for trading on a U.S. national or regional securities exchange on the relevant date, the “**Last Reported Sale Price**” shall be the last quoted bid price for per ADS in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the ADSs are not so quoted, the “**Last Reported Sale Price**” shall be the average of the mid-point of the last bid and ask prices per ADS on the relevant date from a nationally recognized independent investment banking firm selected by the Company for this purpose.

“**Make-Whole Fundamental Change**” means any transaction or event that constitutes a Fundamental Change (as defined above and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the *proviso* in clause (b) of the definition thereof).

“**Make-Whole Fundamental Change Period**” shall have the meaning specified in Section 14.03(a).

“**Market Disruption Event**” means, for the purposes of determining amounts due upon conversion (a) a failure by the primary U.S. national or regional securities exchange or market on which the ADSs are listed or admitted for trading to open for trading during its regular trading session or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the ADSs for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the ADSs or in any options contracts or futures contracts relating to the ADSs.

“**Maturity Date**” means September 15, 2025.

“**Measurement Period**” shall have the meaning specified in Section 14.01(b)(i).

“**Merger Event**” shall have the meaning specified in Section 14.07(a).

“**Note**” or “**Notes**” shall have the meaning specified in the first paragraph of the recitals of this Indenture.

“**Note Register**” shall have the meaning specified in Section 2.05(a).

“**Note Registrar**” shall have the meaning specified in Section 2.05(a).

“**Notice of Conversion**” shall have the meaning specified in Section 14.02(b).

“**Notice of Optional Redemption**” shall have the meaning specified in Section 17.02.



**“Notice of Tax Redemption”** shall have the meaning specified in Section 16.02.

**“Observation Period”** with respect to any Note surrendered for conversion means: (i) subject to clause (ii), if the relevant Conversion Date occurs prior to June 15, 2025, the 40 consecutive Trading Day period beginning on, and including, the second Trading Day immediately succeeding such Conversion Date; (ii) with respect to any Notes called for Redemption (or deemed called for Redemption), if the relevant Conversion Date occurs on or after the date of the Company’s issuance of a relevant Redemption Notice with respect to the relevant Note pursuant to Section 16.02 or Section 17.02, and in each case, prior to the close of business on the second Scheduled Trading Day immediately preceding the relevant Redemption Date, the 40 consecutive Trading Days beginning on, and including, the 41<sup>st</sup> Scheduled Trading Day immediately preceding such Redemption Date; and (iii) subject to clause (ii), if the relevant Conversion Date occurs on or after June 15, 2025, the 40 consecutive Trading Days beginning on, and including, the 41<sup>st</sup> Scheduled Trading Day immediately preceding the Maturity Date.

**“Offering Memorandum”** means the preliminary offering memorandum dated August 24, 2020 as supplemented by the related pricing term sheet dated August 24, 2020, relating to the offering and sale of the Notes.

**“Officer”** means, with respect to the Company, the Chairman of the Board of Directors, the President, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary, any Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word or words added before or after the title “Vice President”).

**“Officers’ Certificate,”** when used with respect to the Company, means a certificate that is delivered to the Trustee and that is signed by two Officers of the Company. Each such certificate shall include the statements provided for in Section 18.05 if and to the extent required by the provisions of such Section.

**“1% Exception”** means the provisions set forth in Section 14.04(k).

**“open of business”** means 9:00 a.m. (New York City time).

**“Opinion of Counsel”** means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, or other counsel reasonably acceptable to the Trustee, that is delivered to the Trustee, which opinion may contain customary exceptions and qualifications as to the matters set forth therein. Each such opinion shall include the statements provided for in Section 18.05 if and to the extent required by the provisions of such Section 18.05.

**“Optional Redemption”** shall have the meaning specified in Section 17.01.

**“Optional Redemption Date”** shall have the meaning specified in **Error! Reference source not found.**

**“Optional Redemption Notice Date”** shall have the meaning specified in Section 17.01.

“**Ordinary Shares**” means the ordinary shares of the Company, par value NIS 1.00 per share, at the date of this Indenture, subject to Section 14.07.

“**Original Issuance Date**” shall have the meaning specified in Section 4.06(d).

“**outstanding**,” when used with reference to Notes, shall, subject to the provisions of Section 8.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

(a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;

(b) Notes, or portions thereof, that have become due and payable and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent);

(c) Notes that have been paid pursuant to Section 2.06 or Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.06 unless proof satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;

(d) Notes converted pursuant to Article 14 and required to be cancelled pursuant to Section 2.08;

(e) Notes redeemed by the Company pursuant to Article 16 or Article 17; and

(f) Notes repurchased by the Company pursuant to the penultimate sentence of Section 2.10.

“**Partial Redemption Limitation**” shall have the meaning in Section 17.02(d).

“**Paying Agent**” shall have the meaning specified in Section 4.02.

“**Person**” means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

“**Physical Notes**” means permanent certificated Notes in registered form issued in denominations of \$1,000 principal amount and integral multiples thereof.

“**Physical Settlement**” shall have the meaning specified in Section 14.02(a).

“**Predecessor Note**” of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.06 in lieu of or in exchange for

a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

“**Purchase Agreement**” means that certain Purchase Agreement, dated as of August 24, 2020, among the Company and the Initial Purchasers.

“**Record Date**” means, with respect to any dividend, distribution or other transaction or event in which the holders of ADSs (or other applicable security) have the right to receive any cash, securities or other property or in which the ADSs (or such other security) are exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the ADSs (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Company, by statute, by contract or otherwise).

“**Redemption**” means a Tax Redemption or an Optional Redemption, as the case may be, pursuant to this Indenture.

“**Redemption Date**” means the Tax Redemption Date or Optional Redemption Date, as applicable.

“**Redemption Notice**” means a Notice of Tax Redemption or Notice of Optional Redemption, as the case may be, pursuant to this Indenture.

“**Redemption Notice Date**” means any Tax Redemption Notice Date or Optional Redemption Notice Date, as the case may be, pursuant to this Indenture.

“**Redemption Period**” means, for any Redemption, the period from, and including, the related Redemption Notice Date to, and including, the second Scheduled Trading Day immediately preceding the related Redemption Date.

“**Redemption Price**” means, for any Notes to be redeemed pursuant to Section 16.01 or Section 17.01, 100% of the principal amount of such Notes, *plus* accrued and unpaid Special Interest, if any, to, but excluding, the Redemption Date (unless the Redemption Date falls after a Special Interest Record Date but on or prior to the immediately succeeding Special Interest Payment Date, in which case Special Interest accrued to the Special Interest Payment Date will be paid to Holders of record of such Notes as of the close of business on such Special Interest Record Date, and the Redemption Price will be equal to 100% of the principal amount of such Notes).

“**Reference Property**” shall have the meaning specified in Section 14.07(a).

“**Relevant Jurisdiction**” shall have the meaning specified in Section 4.10(a).

“**Relevant Taxing Jurisdiction**” shall have the meaning specified in Section 4.10(a).

“**Resale Restriction Termination Date**” shall have the meaning specified in Section 2.05(c).

“**Responsible Officer**” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“**Restricted Issuance Agreement**” means restricted issuance agreement by and among the Company, the ADS Depositary, and the holders and beneficial owners of restricted ADSs issued thereunder (as may be amended), pursuant to which ADSs will be issued to the extent any ADSs are issued prior to the Resale Restriction Termination Date.

“**Restricted Securities**” shall have the meaning specified in Section 2.05(c).

“**Rule 144**” means Rule 144 as promulgated under the Securities Act.

“**Rule 144A**” means Rule 144A as promulgated under the Securities Act.

“**Scheduled Trading Day**” means a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange or market on which the ADSs are listed or admitted for trading. If the ADSs are not so listed or admitted for trading, “**Scheduled Trading Day**” means a Business Day.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Settlement Amount**” has the meaning specified in Section 14.02(a)(iii)(B).

“**Settlement Method**” means, with respect to any conversion of Notes, Physical Settlement, Cash Settlement or Combination Settlement, as elected (or deemed to have been elected) by the Company.

“**Settlement Method Election Deadline**” shall have the meaning specified in Section 14.02(a)(iii)(A).

“**Settlement Notice**” has the meaning specified in Section 14.02(a)(iii)(A).

“**Significant Subsidiary**” means a Subsidiary of the Company that meets the definition of “significant subsidiary” in Article 1, Rule 1-02 of Regulation S-X under the Exchange Act.

“**Special Interest**” means all amounts, if any, payable pursuant to Section 4.06(d), Section 4.06(e) and 0, as applicable.

“**Special Interest Payment Date**” means, if and to the extent that Special Interest is payable on the Notes, each March 15 and September 15 of each year, beginning on March 15, 2021.

“**Special Interest Record Date**,” with respect to any Special Interest Payment Date, means the March 1 or September 1 (whether or not such day is a Business Day) immediately preceding the applicable March 15 or March 15 Special Interest Payment Date, respectively.

“**Specified Dollar Amount**” means the maximum cash amount (excluding cash in lieu of any Fractional ADSs) per \$1,000 principal amount of Notes to be received upon conversion as specified in the Settlement Notice related to any converted Notes.

“**Spin-Off**” shall have the meaning specified in Section 14.04(c).

“**Subsidiary**” means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“**Successor Company**” shall have the meaning specified in Section 11.01(a).

“**Tax Redemption**” shall have the meaning specified in Section 16.01(a).

“**Tax Redemption Date**” shall have the meaning specified in Section 16.02(a).

“**Tax Redemption Notice Date**” shall have the meaning specified in Section 16.02(a).

“**Trading Day**” means a day on which (i) trading in the ADSs (or other security for which a closing sale price must be determined) generally occurs on The Nasdaq Global Select Market or, if the ADSs (or such other security) are not then listed on The Nasdaq Global Select Market, on the principal other U.S. national or regional securities exchange on which the ADSs (or such other security) are then listed or, if the ADSs (or such other security) are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the ADSs (or such other security) are then traded, and (ii) a Last Reported Sale Price for the ADSs (or closing sale price for such other security) is available on such securities exchange or market; *provided* that if the ADSs (or such other security) are not so listed or traded, “**Trading Day**” means a Business Day; and *provided, further*, that for purposes of determining amounts due upon conversion only, “**Trading Day**” means a day on which (x) there is no Market Disruption Event and (y) trading in the ADSs generally occurs on The Nasdaq Global Select Market or, if the ADSs are not then listed on The Nasdaq Global Select Market, on the principal other U.S. national or regional securities exchange on which the ADSs are then listed or, if the ADSs are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the ADSs are then listed or admitted for trading, except that if the ADSs are not so listed or admitted for trading, “**Trading Day**” means a Business Day.

“**Trading Price**” per \$1,000 principal amount of the Notes on any date of determination means, subject to Section 14.01(b), the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for \$5,000,000 principal amount of Notes at approximately 3:30

p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects for this purpose, which may include one or more of the Initial Purchasers or their respective affiliates; *provided* that if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for \$5,000,000 principal amount of Notes from a nationally recognized securities dealer on any determination date, then the Trading Price per \$1,000 principal amount of Notes on such determination date shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the ADSs and the Conversion Rate.

“**transfer**” shall have the meaning specified in Section 2.05(c).

“**Trigger Event**” shall have the meaning specified in Section 14.04(c).

“**Trust Indenture Act**” means the Trust Indenture Act of 1939, as amended, as it was in force at the date of execution of this Indenture; *provided, however*, that in the event the Trust Indenture Act of 1939 is amended after the date hereof, the term “Trust Indenture Act” shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939, as so amended.

“**Trustee**” means the Person named as the “**Trustee**” in the first paragraph of this Indenture until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “**Trustee**” shall mean or include each Person who is then a Trustee hereunder.

“**unit of Reference Property**” shall have the meaning specified in Section 14.07(a).

“**Unrestricted Deposit Agreement**” means the Fourth Amended and Restated Deposit Agreement dated as of April 24, 2015, by and among the Company, the ADS Depositary and the holders and beneficial owners of the ADSs delivered thereunder, a form of which has been filed as Exhibit (a) to the registration statement on Form F-6 (Registration No. 333-203623) filed with the Commission on April 24, 2015, as amended by Amendment No. 1 to the Unrestricted Deposit Agreement, a form of which has been filed as Exhibit (a) to a post-effective amendment to such registration statement filed with the Commission on April 29, 2020, or, if amended or supplemented as provided therein, as so amended or supplemented.

“**Valuation Period**” shall have the meaning specified in Section 14.04(c).

“**VAT**” means the Israeli value added tax imposed pursuant to the Israel Value Added Tax Law of 1975 (including any successor law).

“**Wholly Owned Subsidiary**” means, with respect to any Person, any Subsidiary of such Person, except that, solely for purposes of this definition, the reference to “more than 50%” in the definition of “Subsidiary” shall be deemed replaced by a reference to “100%”.

Section 1.02. *References to Interest.* Unless the context otherwise requires, any reference to interest on, or in respect of, any Note in this Indenture shall be deemed to refer

solely to Special Interest if, in such context, Special Interest is, was or would be payable pursuant to any of Section 4.06(d), Section 4.06(e) and 0.

## ARTICLE 2

### ISSUE, DESCRIPTION, EXECUTION, REGISTRATION AND EXCHANGE OF NOTES

Section 2.01. *Designation and Amount.* The Notes shall be designated as the “0% Convertible Senior Notes due 2025.” The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to \$400,000,000 (as increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the Initial Purchasers pursuant to the exercise of their option to purchase additional Notes as set forth in the Purchase Agreement), subject to Section 2.10 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder.

Section 2.02. *Form of Notes.* The Notes and the Trustee’s certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made a part of this Indenture. To the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. In the case of any conflict between this Indenture and a Note, the provisions of this Indenture shall control and govern to the extent of such conflict.

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian or the Depositary, or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as the Officer executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

Each Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect redemptions, repurchases, cancellations, conversions, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the

amount of outstanding Notes represented thereby shall be made by the Trustee or the Note Registrar, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. Payment of principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and any accrued and unpaid Special Interest on, a Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

*Section 2.03. Date and Denomination of Notes; No Regular Interest; Payments of Special Interest and Defaulted Amounts.* (a) The Notes shall be issuable in registered form without coupons in denominations of \$1,000 principal amount and integral multiples thereof. Each Note shall be dated the date of its authentication and shall not bear regular interest and the principal amount of the Notes will not accrete. Special Interest on the Notes, if any, shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(b) The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on any Special Interest Record Date with respect to any Special Interest Payment Date shall be entitled to receive any Special Interest payable on such Special Interest Payment Date. The principal amount of any Note (x) in the case of any Physical Note, shall be payable at the office or agency of the Company maintained by the Company for such purposes in the continental United States of America, which shall initially be the Corporate Trust Office and (y) in the case of any Global Note, shall be payable by wire transfer of immediately available funds to the account of the Depository or its nominee. The Company shall pay any Special Interest (i) on any Physical Notes (A) to Holders holding Physical Notes having an aggregate principal amount of \$5,000,000 or less, by check mailed to the Holders of these Notes at their address as it appears in the Note Register and (B) to Holders holding Physical Notes having an aggregate principal amount of more than \$5,000,000, either by check mailed to each Holder or, upon application by such a Holder to the Note Registrar (containing the requisite information for the Paying Agent to make such wire transfer) not later than the relevant Special Interest Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, which application shall remain in effect until the Holder notifies, in writing, the Note Registrar to the contrary or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depository or its nominee.

(c) Any Defaulted Amounts shall forthwith cease to be payable to the Holder on the relevant payment date and shall not accrue interest unless Special Interest is payable pursuant to this Indenture on the relevant payment date, in which case such Defaulted Amounts shall accrue interest per annum at the then-applicable rate of Special Interest and to the extent that such Special Interest remains payable pursuant to this Indenture, subject to the enforceability thereof under applicable law, from, and including, such relevant payment date, and such Defaulted Amounts together with any such Special Interest thereon shall be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Amounts to the Persons in whose names the Notes (or their respective Predecessor Notes) are



registered at the close of business on a special record date for the payment of such Defaulted Amounts, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of the Defaulted Amounts proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Amounts or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Amounts as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Amounts which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment, and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee in writing of such special record date and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Amounts and the special record date therefor to be delivered to each Holder not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Amounts and the special record date therefor having been so delivered, such Defaulted Amounts shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (ii) of this Section 2.03(c).

(ii) The Company may make payment of any Defaulted Amounts in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Section 2.04. *Execution, Authentication and Delivery of Notes.* The Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of any of its Chief Executive Officer, President, Chief Financial Officer, Treasurer, Secretary or any of its Executive or Senior Vice Presidents.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder; *provided* that the Trustee shall receive an Officers' Certificate and an Opinion of Counsel of the Company with respect to the issuance, authentication and delivery of Notes.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the Form of Note attached as Exhibit A hereto, executed manually by an

authorized officer of the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 18.10), shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Note, shall be the Officers of the Company, although at the date of the execution of this Indenture any such person was not such an Officer.

*Section 2.05. Exchange and Registration of Transfer of Notes; Restrictions on Transfer; Depository.* (a) The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office or in any other office or agency of the Company designated pursuant to Section 4.02, the “**Note Register**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed the “**Note Registrar**” for the purpose of registering Notes and transfers of Notes as herein provided. The Company may appoint one or more co-Note Registrars in accordance with Section 4.02.

Upon surrender for registration of transfer of any Note to the Note Registrar or any co-Note Registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.05, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture.

Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 4.02. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange, repurchase or conversion shall (if so required by the Company, the Trustee, the Note Registrar or any co-Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent for any exchange or registration of transfer of Notes, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax required in connection therewith as a result of the name of the Holder of new Notes issued upon such exchange or registration of transfer being different from the name of the Holder of the old Notes surrendered for exchange or registration of transfer.

None of the Company, the Trustee, the Note Registrar or any co-Note Registrar shall be required to exchange or register a transfer of (i) any Notes surrendered for conversion or, if a portion of any Note is surrendered for conversion, such portion thereof surrendered for conversion, (ii) any Notes, or a portion of any Note, surrendered for repurchase (and not withdrawn) in accordance with Article 15 or (iii) in the event of any Redemption, any Note so selected for Redemption, in whole or in part, except the unredeemed portion of any Note being redeemed in part.

All Notes issued upon any registration of transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(b) So long as the Notes are eligible for book-entry settlement with the Depositary, unless otherwise required by law, subject to the fourth paragraph from the end of Section 2.05(c) all Notes shall be represented by one or more Notes in global form (each, a “**Global Note**”) registered in the name of the Depositary or the nominee of the Depositary. The transfer and exchange of beneficial interests in a Global Note that does not involve the issuance of a Physical Note shall be effected through the Depositary (but not the Trustee or the Custodian) in accordance with this Indenture (including the restrictions on transfer set forth herein) and the procedures of the Depositary therefor.

(c) Every Note that bears or is required under this Section 2.05(c) to bear the legend set forth in this Section 2.05(c) (together with any ADSs (including the Ordinary Shares represented thereby) issued upon conversion of the Notes that is required to bear the legend set forth in Section 2.05(d), collectively, the “**Restricted Securities**”) shall be subject to the restrictions on transfer set forth in this Section 2.05(c) (including the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Security, by such Holder’s acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.05(c) and Section 2.05(d), the term “**transfer**” encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until the date (the “**Resale Restriction Termination Date**”) that is the later of (1) the date that is one year after the Original Issuance Date, or such shorter period of time as permitted by Rule 144 or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, any certificate evidencing such Note (and all securities issued in exchange therefor or substitution thereof, other than ADSs, if any, issued upon conversion thereof, which shall bear the legend set forth in Section 2.05(d), if applicable) shall bear a legend

in substantially the following form (unless such Notes have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company in writing, with notice thereof to the Trustee):

THIS SECURITY, THE AMERICAN DEPOSITARY SHARES OF NICE LTD., IF ANY, DELIVERABLE UPON CONVERSION OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED THEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), ARE “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR THEREOF OR OF A BENEFICIAL INTEREST HEREIN OR THEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT AND THAT IT AND ANY SUCH ACCOUNT IS NOT, AND HAS NOT BEEN FOR THE IMMEDIATELY PRECEDING THREE MONTHS, AN AFFILIATE OF NICE LTD. (THE “COMPANY”), AND

(2) AGREES FOR THE BENEFIT OF THE “COMPANY” THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES DELIVERABLE UPON CONVERSION OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED THEREBY, OR ANY BENEFICIAL INTEREST HEREIN OR THEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OF THE COMPANY THAT COVERS THE RESALE OF THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES OF THE COMPANY DELIVERABLE UPON CONVERSION OF THIS SECURITY AND/OR THE ORDINARY SHARES REPRESENTED THEREBY, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT THAT IS NOT AN AFFILIATE OF THE COMPANY, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY AND NO PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE THREE IMMEDIATELY PRECEDING MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR OWN THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES DELIVERABLE UPON CONVERSION HEREOF AND THE ORDINARY SHARES REPRESENTED THEREBY OR A BENEFICIAL INTEREST HEREIN OR THEREIN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE ORDINARY SHARES MAY NOT BE DEPOSITED INTO ANY UNRESTRICTED DEPOSITARY RECEIPT FACILITY IN RESPECT OF THE ORDINARY SHARES ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK, UNLESS AND UNTIL SUCH TIME AS THE ORDINARY SHARES ARE NO LONGER RESTRICTED SECURITIES UNDER THE SECURITIES ACT OF 1933. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OF 1933 FOR RESALE OF THE ORDINARY SHARES OR THE AMERICAN DEPOSITARY SHARES.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

Any Note (or security issued in exchange or substitution therefor) (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of such Note for exchange to the Note Registrar in accordance with the provisions of this Section 2.05, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the restrictive legend required by this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Trustee in writing to so surrender any Global Note as to which any of the conditions set forth in clause (i) through (iii) of

the immediately preceding sentence have been satisfied, and, upon such instruction, the Trustee shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the restrictive legend specified in this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee in writing upon the occurrence of the Resale Restriction Termination Date and promptly after a registration statement, if any, with respect to the Notes or any ADSs (including the Ordinary Shares represented thereby) issuable upon conversion of the Notes has been declared effective under the Securities Act.

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.05(c)), a Global Note may not be transferred as a whole or in part except (i) by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository and (ii) for exchange of a Global Note or a portion thereof for one or more Physical Notes in accordance with the second immediately succeeding paragraph.

The Depository shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depository with respect to each Global Note. Initially, each Global Note shall be issued to the Depository, registered in the name of Cede & Co., as the nominee of the Depository, and deposited with the Trustee as custodian for Cede & Co..

If (i) the Depository notifies the Company at any time that the Depository is unwilling or unable to continue as depository for the Global Notes and a successor depository is not appointed within 90 days, (ii) the Depository ceases to be registered as a clearing agency under the Exchange Act and a successor depository is not appointed within 90 days or (iii) an Event of Default with respect to the Notes has occurred and is continuing and a beneficial owner of any Note requests that its beneficial interest therein be issued as a Physical Note, the Company shall execute, and the Trustee, upon receipt of an Officers' Certificate and a Company Order for the authentication and delivery of Notes, shall authenticate and deliver (x) in the case of clause (iii), a Physical Note to such beneficial owner in a principal amount equal to the principal amount of such Note corresponding to such beneficial owner's beneficial interest and (y) in the case of clause (i) or (ii), Physical Notes to each beneficial owner of the related Global Notes (or a portion thereof) in an aggregate principal amount equal to the aggregate principal amount of such Global Notes in exchange for such Global Notes, and upon delivery of the Global Notes to the Trustee such Global Notes shall be canceled.

Physical Notes issued in exchange for all or a part of the Global Note pursuant to this Section 2.05(c) shall be registered in such names and in such authorized denominations as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, or, in the case of clause (iii) of the immediately preceding paragraph, the relevant beneficial owner, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Physical Notes to the Persons in whose names such Physical Notes are so registered.

At such time as all interests in a Global Note have been converted, canceled, repurchased, redeemed or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with standing procedures and existing instructions between the Depositary and the Custodian. At any time prior to such cancellation, if any interest in a Global Note is exchanged for Physical Notes, converted, canceled, repurchased, redeemed or transferred to a transferee who receives Physical Notes therefor or any Physical Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall, in accordance with the standing procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Note Registrar, at the direction of the Trustee, to reflect such reduction or increase.

None of the Company, the Trustee or any agent of the Company or the Trustee shall have any responsibility or liability for the payment of amounts to owners of beneficial interest in a Global Note, for any aspect of the records relating to or payments made on account of those interests by the Depositary, or for maintaining, supervising or reviewing any records of the Depositary relating to such beneficial ownership of those interests.

(d) Until the Resale Restriction Termination Date, any certificate representing ADSs (including the Ordinary Shares represented thereby) issued upon conversion of a Note shall bear a legend in substantially the following form (unless the Note or such ADSs (including the Ordinary Shares represented thereby) has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or such ADSs (or the Ordinary Shares represented thereby) have been issued upon conversion of a Note that has transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company with written notice thereof to the Trustee, any transfer agent for the Ordinary Shares and the ADS Depositary):

THESE AMERICAN DEPOSITARY SHARES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), ARE “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN OR THEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT AND THAT IT AND ANY SUCH ACCOUNT IS NOT, AND HAS NOT BEEN FOR THE

IMMEDIATELY PRECEDING THREE MONTHS, AN AFFILIATE OF NICE LTD. (THE “COMPANY”), AND

(2) AGREES FOR THE BENEFIT OF THE “COMPANY” THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN OR THEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OF THE COMPANY THAT COVERS THE RESALE OF THESE AMERICAN DEPOSITARY SHARES, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT THAT IS NOT AN AFFILIATE OF THE COMPANY, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY, THE ADS DEPOSITARY AND THE TRANSFER AGENT FOR THE COMPANY’S ORDINARY SHARES RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY AND NO PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE THREE IMMEDIATELY PRECEDING MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR OWN THESE AMERICAN DEPOSITARY SHARES OR A BENEFICIAL INTEREST HEREIN OR THEREIN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE ORDINARY SHARES MAY NOT BE DEPOSITED INTO ANY UNRESTRICTED DEPOSITARY RECEIPT FACILITY IN RESPECT OF THE ORDINARY SHARES ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK, UNLESS AND UNTIL SUCH TIME AS THE ORDINARY SHARES ARE NO LONGER RESTRICTED



SECURITIES UNDER THE SECURITIES ACT OF 1933. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OF 1933 FOR RESALE OF THE ORDINARY SHARES OR THE AMERICAN DEPOSITARY SHARES.

Any such ADSs (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that have been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of the certificates representing such ADSs for exchange in accordance with the procedures of the ADS Depository, be exchanged for a new certificate or certificates for a like aggregate number of ADSs, which shall not bear the restrictive legend required by this Section 2.05(d).

(e) Any Note, ADS and any Ordinary Shares represented thereby issued upon the conversion or exchange of a Note that is repurchased or owned by any Affiliate of the Company (or any Person who was an Affiliate of the Company at any time during the three months immediately preceding) may not be resold by such Affiliate (or such Person, as the case may be) unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Note, ADS or Ordinary Share, as the case may be, no longer being a “restricted security” (as defined under Rule 144). The Company shall cause any Note that is repurchased or owned by it to be surrendered to the Trustee for cancellation in accordance with Section 2.08.

Section 2.06. *Mutilated, Destroyed, Lost or Stolen Notes.* In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Note, bearing a registration number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Note and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company and, if applicable, such authenticating agent may require. No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent upon the issuance of any substitute Note, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax required in connection therewith as a result of the name of the Holder of the new substitute Note being different from the name of the Holder of the old Note that became mutilated or was destroyed, lost or stolen. In case any

Note that has matured or is about to mature or has been surrendered for required repurchase or is about to be converted in accordance with Article 14 shall become mutilated or be destroyed, lost or stolen, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or conversion shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Conversion Agent evidence of their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.06 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement, payment, redemption, conversion or repurchase of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement, payment, redemption, conversion or repurchase of negotiable instruments or other securities without their surrender.

Section 2.07. *Temporary Notes.* Pending the preparation of Physical Notes, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of the Physical Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Physical Notes. Without unreasonable delay, the Company shall execute and deliver to the Trustee or such authenticating agent Physical Notes (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Physical Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Physical Notes authenticated and delivered hereunder.

Section 2.08. *Cancellation of Notes Paid, Converted, Etc.* The Company shall cause all Notes surrendered for the purpose of payment, repurchase, redemption, registration of transfer or exchange or conversion, if surrendered to any Person other than the Trustee (including any of the

Company's agents, Subsidiaries or Affiliates), to be surrendered to the Trustee for cancellation, except as provided in Section 14.12. All Notes delivered to the Trustee shall be canceled promptly by it. Except for any Notes surrendered for registration of transfer or exchange, or as otherwise expressly permitted by any of the provisions of this Indenture, no Notes shall be authenticated in exchange for any Notes surrendered to the Trustee for cancellation. The Trustee shall dispose of canceled Notes in accordance with its customary procedures and, after such disposition, shall deliver evidence of such disposition to the Company, at the Company's written request in a Company Order.

Section 2.09. *CUSIP Numbers.* The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in all notices issued to Holders as a convenience to such Holders; *provided* that the Trustee shall have no liability for any defect in the "CUSIP" numbers as they appear on any Note, notice or elsewhere, and, *provided further* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or on such notice and that reliance may be placed only on the other identification numbers printed on the Notes. The Company shall promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

Section 2.10. *Additional Notes; Repurchases.* The Company may, without the consent of the Holders and notwithstanding Section 2.01, reopen this Indenture and issue additional Notes hereunder with the same terms as the Notes initially issued hereunder (other than differences in the issue date, the issue price and, if applicable, restrictions on transfer in respect of such additional Notes) in an unlimited aggregate principal amount; *provided* that if any such additional Notes are not fungible with the Notes initially issued hereunder for U.S. federal income tax purposes, such additional Notes shall have one or more separate CUSIP numbers or no CUSIP number. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officers' Certificate and an Opinion of Counsel, such Officers' Certificate and Opinion of Counsel to cover such matters as required by Section 18.05. In addition, the Company may, to the extent permitted by law, directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or its Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives. The Company shall cause any Notes so repurchased (other than Notes repurchased pursuant to cash-settled swaps or other derivatives) to be surrendered to the Trustee for cancellation in accordance with Section 2.08 and such Notes shall no longer be considered outstanding under this Indenture upon their repurchase.

### ARTICLE 3 SATISFACTION AND DISCHARGE

Section 3.01. *Satisfaction and Discharge.* This Indenture shall upon request of the Company contained in an Officers' Certificate cease to be of further effect, and the Trustee, at the expense of the Company, shall execute instruments reasonably requested by the Company acknowledging satisfaction and discharge of this Indenture, when (a) (i) all Notes theretofore authenticated and delivered (other than (x) Notes which have been destroyed, lost or stolen and which have been replaced, paid or converted as provided in Section 2.06 and (y) Notes for whose

payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.04(d)) have been delivered to the Trustee for cancellation; or (ii) the Company has deposited with the Trustee or delivered to Holders, as applicable, after the Notes have become due and payable, whether on the Maturity Date, any Redemption Date, any Fundamental Change Repurchase Date, upon conversion or otherwise, cash, ADSs or a combination thereof, as applicable, solely to satisfy the Company's Conversion Obligation, sufficient to pay all of the outstanding Notes and all other sums due and payable under this Indenture by the Company; and (b) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 7.06 shall survive.

#### ARTICLE 4 PARTICULAR COVENANTS OF THE COMPANY

Section 4.01. *Payment of Principal and Special Interest.* The Company covenants and agrees that it will cause to be paid the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and any accrued and unpaid Special Interest on, each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes. Notwithstanding anything to the contrary contained in this Indenture, the Company may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes imposed by any Relevant Taxing Jurisdiction from a payment of any principal, Special Interest, Defaulted Amounts and Additional Amounts hereunder.

Section 4.02. *Maintenance of Office or Agency.* The Company will maintain in the continental United States, an office or agency where the Notes may be surrendered for registration of transfer or exchange or for presentation for payment or repurchase ("**Paying Agent**") or for conversion ("**Conversion Agent**") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office or the office or agency of the Trustee in the continental United States.

The Company may also from time to time designate as co-Note Registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the continental United States, for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "**Paying Agent**" and "**Conversion Agent**" include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Note Registrar, Custodian and Conversion Agent and the Corporate Trust Office as the office or agency in the continental United States, where Notes may be surrendered for registration of transfer or exchange or for presentation for payment or repurchase or for conversion and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served, provided that the Corporate Trust Office shall not be a place for service of legal process on the Company.

Section 4.03. *Appointments to Fill Vacancies in Trustee's Office.* The Company, whenever necessary to avoid or fill a vacancy in the Corporate Trust Office, will appoint, in the manner provided in Section 7.09, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.04. *Provisions as to Paying Agent.* (a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.04:

(i) that it will hold all sums held by it as such agent for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and any accrued and unpaid Special Interest on, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt written notice of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and any accrued and unpaid Special Interest on, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or any accrued and unpaid Special Interest on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) or any accrued and unpaid Special Interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action; *provided* that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 11:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and any accrued and unpaid Special Interest on, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) and such accrued and unpaid Special Interest, if any, so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the

Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or any accrued and unpaid Special Interest on, the Notes when the same shall become due and payable.

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.04, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

(d) Any money and ADSs deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, any accrued and unpaid Special Interest on, and the consideration due upon conversion of, any Note and remaining unclaimed for two years after such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), Special Interest or consideration due upon conversion has become due and payable shall be paid to the Company on request of the Company contained in an Officers' Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money and ADSs, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 4.05. *Existence.* Subject to Article 11, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 4.06. *Rule 144A Information Requirement and Annual Reports.* (a) At any time the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company shall, so long as any of the Notes, the ADSs issuable upon conversion of the notes (if any) or any Ordinary Shares represented thereby shall, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and, upon written request, any Holder, beneficial owner or prospective purchaser of such Notes or any ADSs issuable upon conversion of such Notes, if any, or the Ordinary Shares represented thereby the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes, ADSs or Ordinary Shares pursuant to Rule 144A, as such rule may be amended from time to time.

(b) The Company shall file with the Trustee, within 15 days after the same are required to be filed with the Commission, copies of any documents or reports that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (excluding any such information, documents or reports, or portions thereof, subject to, or with respect to which the Company is actively seeking, confidential treatment and any correspondence with the Commission and giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Any such document or report that the Company files with the

Commission via the Commission's EDGAR system or any successor system shall be deemed to be filed with the Trustee for purposes of this Section 4.06(b) at the time such documents are filed via the EDGAR system or any successor system. The Trustee shall have no responsibility to determine whether any such filings have been made.

(c) Delivery of the reports and documents described in subsection (b) above to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officers' Certificate).

(d) If, at any time during the six-month period beginning on, and including, the date that is six months after the last original issuance date of the Notes (which original issuance date will be deemed, if the Initial Purchasers exercise their option to purchase additional Notes under the Purchase Agreement, to be the last date of settlement of such exercise) (the "**Original Issuance Date**"), the Company fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (after giving effect to all applicable grace periods thereunder and other than reports on Form 6-K to the extent that the Company continues to satisfy the "current public information" requirements of Rule 144), or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months immediately preceding (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes), the Company shall pay Special Interest on the Notes. Such Special Interest shall accrue on the Notes at the rate of (i) 0.25% per annum of the principal amount of Notes outstanding for each of the first 90 days and (ii) 0.50% per annum of the principal amount of the Notes outstanding for each day from and including the 91<sup>st</sup> day, in each case, during such period for which the Company's failure to file has occurred and is continuing or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the three months immediately preceding) as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes. As used in this Section 4.06(d), documents or reports that the Company is required to "file" with the Commission pursuant to Section 13 or 15(d) of the Exchange Act does not include documents or reports that the Company furnishes to the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

(e) If, and for so long as, the restrictive legend on the Notes specified in Section 2.05(c) has not been removed (or deemed removed), the Notes are assigned a restricted CUSIP number or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months immediately preceding (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes) as of the 380th day after the Original Issuance Date of the Notes, the Company shall pay Special Interest on the Notes at a rate equal to 0.50% per annum of the principal amount of Notes outstanding until the restrictive legend on the Notes has been removed in accordance with Section 2.05(c), the Notes are assigned an unrestricted CUSIP number and the Notes are freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the

three months immediately preceding) without restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes.

(f) Special Interest will be payable in arrears on each Special Interest Payment Date as set forth in Section 2.03.

(g) Subject to the immediately succeeding sentence, the Special Interest that is payable in accordance with Section 4.06(d) or Section 4.06(e) shall be in addition to, and not in lieu of, any Special Interest that may be payable as a result of the Company's election pursuant to 0. Notwithstanding the foregoing, in no event shall any Special Interest that may accrue pursuant to Section 4.06(d) and Section 4.06(e), together with any Special Interest that may accrue in the event the Company elects to pay Special Interest in respect of an Event of Default relating to its failure to comply with its obligations as set forth under 0, accrue at an aggregate rate in excess of 0.50% per annum, in each case, as a result of the Company's failure to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, regardless of the number of such events or such circumstances giving rise to the requirement to pay such Special Interest. Such Special Interest will be the exclusive remedy available to Holders of the Notes for a failure of the Notes to become freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the three months immediately preceding) as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes.

(h) If Special Interest is payable by the Company pursuant to Section 4.06(d) or Section 4.06(e), the Company shall deliver to the Trustee an Officers' Certificate to that effect stating (i) the amount of such Special Interest that is payable and (ii) the date on which such Special Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Special Interest is payable. If the Company has paid Special Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officers' Certificate setting forth the particulars of such payment.

Section 4.07. *Stay, Extension and Usury Laws.* The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or any Special Interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 4.08. *Compliance Certificate; Statements as to Defaults.* The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ending on December 31, 2020) an Officers' Certificate stating whether the signers thereof have knowledge of any failure by the Company to comply with all



conditions and covenants then required to be performed under this Indenture and, if so, specifying each such failure and the nature thereof.

In addition, the Company shall deliver to the Trustee, within 30 days after the occurrence of any Event of Default or Default, an Officers' Certificate setting forth the details of such Event of Default or Default, its status and the action that the Company is taking or proposing to take in respect thereof.

Section 4.09. *Further Instruments and Acts.* Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

Section 4.10. *Additional Amounts.*

(a) All payments and deliveries made by the Company with respect to the Notes, including, but not limited to, payments of principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price), payments of Special Interest, if any, and payments of cash and/or deliveries of ADSs or any other consideration due on conversion of a Note (together with payments of cash in lieu of Fractional ADS or other consideration), shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Israel, or any other jurisdiction in which the Company is or is deemed to be organized or resident for tax purposes (each, a “**Relevant Taxing Jurisdiction**”) or from or through which payments or deliveries by or on behalf of the Company with respect to the Notes are made or deemed made (together with each Relevant Taxing Jurisdiction, a “Relevant Jurisdiction,” and in each case, including political subdivision thereof or any taxing authority therein or thereof having power to tax), unless such withholding or deduction is required by law. In the event that any such taxes, duties, assessments or governmental charges imposed or levied by or on behalf of a Relevant Taxing Jurisdiction are required to be withheld or deducted from any payments or deliveries made by the Company or the Paying Agent, the Company shall pay to each Holder such additional amounts (“**Additional Amounts**”) as may be necessary to ensure that the net amount received after such withholding or deduction (and after deducting any taxes on the Additional Amounts) shall equal the amounts that would have been received had no such withholding or deduction been required; *provided* that no Additional Amounts shall be payable:

(i) for or on account of:

(A) any tax, duty, assessment or other governmental charge that would not have been imposed but for:

(1) (I) the Holder or beneficial owner of such Note notifying the Company that it is (x) an Israeli resident for Israeli tax purposes or is otherwise subject to tax in Israel due to having a permanent establishment or other nexus to Israel (y) a non-Israeli corporation, for which Israeli residents (i) have a controlling interest of more than 25% in such non-Israeli corporation or (ii) are the

beneficiaries of, or are entitled to, 25% or more of the revenues or profits of such non-Israeli corporation (whether directly or indirectly), or (II) in the case of a Relevant Jurisdiction other than Israel, the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant Holder or beneficial owner, if the relevant Holder or beneficial owner is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Jurisdiction, other than merely holding or enforcing rights under such Note or the receipt of payments thereunder;

(2) the presentation of such Note (in cases in which presentation is required) more than 30 days after the later of (x) the date on which such payment or delivery first becomes due and (y) the date on which payment or delivery thereof is duly provided, except to the extent that the Holder or beneficial owner or such other person would have been entitled to Additional Amounts on presenting the Note for payment on any date during such 30-day period; or

(3) the failure of the Holder or beneficial owner to comply with a timely request from the Company to provide certification, information, documents or other evidence concerning such Holder's or beneficial owner's nationality, residence (including a "Declaration of Status for Israeli Income Tax Purposes" by such Holder or beneficial owner confirming eligibility for an exemption from Israeli tax), identity or connection with the Relevant Jurisdiction, or to make any declaration of non-residence or any other claim or filing for exemption to which it is entitled or satisfy any other reasonable reporting requirement relating to such matters, if and to the extent that the Holder or beneficial owner is legally able to comply with such request and due and timely compliance with such request is required by statute, treaty, regulation or administrative practice of the Relevant Jurisdiction in order to reduce or eliminate any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder or beneficial owner;

(B) any estate, inheritance, gift, use, sales, transfer, excise, personal property or similar tax, assessment or other governmental charge;

(C) any tax, duty, assessment or other governmental charge that is payable otherwise than by withholding or deduction from payments under or with respect to the Notes;

(D) any tax, assessment, withholding or deduction required by sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended ("FATCA"), any current or future U.S. Treasury Regulations or rulings promulgated thereunder, any law, regulation or other official guidance

enacted in any jurisdiction implementing FATCA, any intergovernmental agreement between the United States and any other jurisdiction to implement the foregoing or any law enacted by such other jurisdiction to give effect to such agreement, or any agreement with the U.S. Internal Revenue Service under FATCA;

(E) any tax, assessment or other governmental charge imposed in connection with a Note presented for payment (where presentation is required for payment) by or on behalf of a Holder or beneficial owner who would have been able to avoid such tax, assessment or governmental charge by presenting the relevant Note to, or otherwise accepting payment from, another Paying Agent; or

(F) any combination of taxes referred to in the preceding clauses (A), (B), (C), (D) and (E); or

(ii) with respect to any payment of the principal of (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) and Special Interest on such Note, if any, or the payment of cash and/or delivery of ADSs (together with payment of cash in lieu of Fractional ADSs) upon conversion of such Note to any Person who is a fiduciary, partnership or Person other than the sole beneficial owner of that payment to the extent that such payment would be required to be included in the income under the laws of the Relevant Jurisdiction, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a partner or member of that partnership or a beneficial owner who the Company knows at the time of the payment or delivery would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner, member or beneficial owner been the Holder thereof.

Notwithstanding the foregoing, the limitations on the Company's obligation to pay Additional Amounts set forth in Section 4.10(a)(i)(A)(3) shall not apply if the provision of any certification, identification, information, documentation or other reporting requirement described in Section 4.10(a)(i)(A)(3) would be materially more onerous, in form, in procedure or in substance of information disclosed, to a Holder or beneficial owner of a Note than comparable information or other reporting requirements imposed under U.S. tax law, regulations and administrative practice (such as U.S. Internal Revenue Service Forms W-8BEN-E and W-9); *provided* that for the avoidance of doubt, the provision of a "Declaration of Status for Israeli Income Tax Purposes" by a Holder or beneficial owner of a Note shall not be considered materially more onerous than comparable information or other reporting requirements under U.S. tax law, regulations and administrative practice (such as U.S. Internal Revenue Service Forms W-8BEN-E and W-9). For the avoidance of doubt, no Holder or beneficial owner of a Note shall have any obligation to establish eligibility for a reduced (or zero) withholding tax rate under any income tax treaty in order to receive Additional Amounts.

(b) If the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, the Company will deliver to the Trustee official tax receipts evidencing the remittance to the relevant tax authorities of the amounts so withheld

or deducted. Copies of such receipts shall be made available to Holders of the Notes upon request.

(c) Whenever there is mentioned in any context the payment of principal of (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), the payment of Special Interest, if any, on, or the payment of cash and/or the delivery of ADSs or any other consideration due on conversion of a Note (together with payment of cash in lieu of Fractional ADSs or other consideration) upon conversion of any Note or any other amount payable with respect to such Note, such mention shall be deemed to include payment of Additional Amounts provided for in this Indenture to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(d) The Company shall promptly pay when due any present or future stamp, court or documentary taxes or any other excise or property taxes, charges or similar levies that arise in any Relevant Jurisdiction from the execution, delivery or registration of each Note or any other document or instrument referred to herein or therein, excluding any such taxes, charges or similar levies imposed by any jurisdiction outside of Israel (or any other relevant jurisdiction) or the United States and except for taxes, charges or similar levies resulting from a transfer of Notes that occurs after the initial sale by the Initial Purchasers and except as provided in Section 2.06, Section 14.02(d) and Section 14.02(e).

(e) All payments and deliveries made under or with respect to the transactions contemplated herein are exclusive of VAT and, accordingly, if VAT is or becomes due, then the Company must pay all such VAT to the relevant tax authorities.

## ARTICLE 5

### LISTS OF HOLDERS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 5.01. *Lists of Holders.* The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee, (i) if and at all such times when Special Interest is payable on the Notes pursuant to this Indenture not more than 15 days after each March 1 and September 1 in each year (if Special Interest is then payable as set forth hereunder) beginning with March 1, 2021, and (ii) at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form as the Trustee may reasonably require of the names and addresses of the Holders as of a date not more than 15 days (or such other date as the Trustee may reasonably request in order to so provide any such notices) prior to the time such information is furnished, except that no such list need be furnished so long as the Trustee is acting as Note Registrar.

Section 5.02. *Preservation and Disclosure of Lists.* The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders contained in the most recent list furnished to it as provided in Section 5.01 or maintained by the Trustee in its capacity as Note Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

ARTICLE 6  
DEFAULTS AND REMEDIES

Section 6.01. *Events of Default.* Each of the following events shall be an “**Event of Default**” with respect to the Notes:

- (a) default in any payment of Special Interest on any Note when due and payable, and the default continues for a period of 30 consecutive days;
- (b) default in the payment of principal of any Note when due and payable on the Maturity Date, upon a Redemption, upon any required repurchase, upon declaration of acceleration or otherwise
- (c) failure by the Company to comply with its obligation to convert the Notes in accordance with this Indenture upon exercise of a Holder’s conversion right and such failure continues for three Business Days;
- (d) failure by the Company to issue a Fundamental Change Company Notice in accordance with Section 15.02(c), notice of a Make-Whole Fundamental Change in accordance with Section 14.03(b), notice of a specified corporate event in accordance with Section 14.01(b)(ii) or Section 14.01(b)(iii) or a Redemption Notice in accordance with Section 16.02 or Section 17.02, as the case may be, in each case when due, and such failure continues for three Business Days;
- (e) failure by the Company to comply with its obligations under Article 11;
- (f) failure by the Company for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then outstanding has been received by the Company to comply with any of its other agreements contained in the Notes or this Indenture;
- (g) default by the Company or any Subsidiary of the Company with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of \$80,000,000 (or its foreign currency equivalent) in the aggregate of the Company and/or any such Subsidiary, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable or (ii) constituting a failure to pay the principal or interest of any such debt when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise, in each case after the expiration of any applicable grace period, if such default is not cured or waived, or such acceleration is not rescinded, within 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least 25% in aggregate principal amount of Notes then outstanding, in accordance with this Indenture;
- (h) a final judgment or judgments for the payment of \$80,000,000 (or its foreign currency equivalent) or more (excluding any amounts covered by insurance) in the aggregate rendered against the Company or any Subsidiary of the Company, which judgment is not discharged, bonded, paid, waived or stayed within 60 days after (i) the date on which the right to

appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished;

(i) the Company or any Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents in writing to the entry of an order for relief against it in an involuntary case;

(iii) consents in writing to the appointment of a custodian, receiver, trustee, liquidator or similar officer (temporary or permanent) of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors;

(v) admits in writing in a public report or release or bondholder report it generally is not paying its debts as they become due; or

(vi) applies for the granting of a freeze order (*hakpaat halichim*) under the Israeli Companies Law, 5759-1999 or under the Israeli Insolvency and Economic Rehabilitation Law, 5778-2018; or

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any Significant Subsidiary in an involuntary case;

(ii) appoints a custodian, receiver, trustee, liquidator or similar officer (temporary or permanent) of the Company or any Significant Subsidiary or for all or substantially all of the property of the Company or any Significant Subsidiary;

(iii) orders the liquidation of the Company or any Significant Subsidiary; or

(iv) grants a freeze order (*hakpaat halichim*) under the Israeli Companies Law, 5759-1999 or under the Israeli Insolvency and Economic Rehabilitation Law, 5778-2018;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02. *Acceleration; Rescission and Annulment.* If one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in Section 6.01(i) or Section 6.01(j) with respect to the Company), unless the principal

of all of the Notes shall have already become due and payable, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding determined in accordance with Section 8.04, by notice in writing to the Company (and to the Trustee if given by Holders), may (and the Trustee, at the written request of such Holders, shall) declare 100% of the principal of, and any accrued and unpaid Special Interest on, if any, all the Notes to be due and payable immediately, and upon any such declaration the same shall become and shall automatically be immediately due and payable, anything contained in this Indenture or in the Notes to the contrary notwithstanding. If an Event of Default specified in Section 6.01(i) or Section 6.01(j) with respect to the Company (and not solely one or more of its Subsidiaries) occurs and is continuing, 100% of the principal of, and accrued and unpaid Special Interest, if any, on, all Notes shall become and shall automatically be immediately due and payable.

The immediately preceding paragraph, however, is subject to the conditions that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay installments of any accrued and unpaid Special Interest upon all Notes and the principal of any and all Notes that shall have become due otherwise than by acceleration (with interest on overdue installments of any accrued and unpaid Special Interest, and on such principal at the then-applicable Special Interest rate only and to the extent any Special Interest is payable at such time and to the extent that payment of such interest is enforceable under applicable law) and amounts due to the Trustee pursuant to Section 7.06, and if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) any and all existing Events of Default under this Indenture, other than the nonpayment of the principal of and accrued and unpaid Special Interest, if any, on Notes that shall have become due solely by such acceleration, shall have been cured or waived pursuant to Section 6.09, then and in every such case (except as provided in the immediately succeeding sentence) the Holders of a majority in aggregate principal amount of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default with respect to the Notes and rescind and annul such declaration and its consequences and such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon. Notwithstanding anything to the contrary herein, no such waiver or rescission and annulment shall extend to or shall affect any Default or Event of Default resulting from (i) the nonpayment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or any accrued and unpaid Special Interest on, any Notes, or (ii) a failure to pay or deliver, as the case may be, the consideration due upon conversion of the Notes.

Section 6.03. *Special Interest.* Notwithstanding anything in this Indenture or in the Notes to the contrary, to the extent the Company elects, the sole remedy for an Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b) shall after the occurrence of such an Event of Default consist exclusively of the right to receive Special Interest on the Notes at a rate equal to (i) 0.25% per annum of the principal amount of the Notes outstanding for the first 180 days during which such Event of Default has occurred and is continuing, beginning on, and including, the date on which such Event of Default first occurs,

and (ii) 0.50% per annum of the principal amount of the Notes outstanding for each day during the next 180-day period during which such Event of Default is continuing, beginning on, and including, the 181st day after such Event of Default first occurred. If the Company so elects, such Special Interest shall be payable as set forth in Section 2.03. On the 361st day after such Event of Default (if the Event of Default relating to the Company's failure to file is not cured or waived prior to such 361st day), the Notes shall be immediately subject to acceleration as provided in Section 6.02. The provisions of this paragraph will not affect the rights of Holders of any Notes in the event of the occurrence of any Event of Default other than the Company's failure to comply with its obligations as set forth in Section 4.06(b). In the event the Company does not elect to pay Special Interest following an Event of Default in accordance with this 0 or the Company elected to make such payment but does not pay the Special Interest when due, the Notes shall be immediately subject to acceleration as provided in Section 6.02.

In order to elect to pay Special Interest as the sole remedy during the first 360 days after the occurrence of any Event of Default described in the immediately preceding paragraph, the Company must notify all Holders of the Notes, the Trustee and the Paying Agent in writing of such election prior to the beginning of such 360-day period. Upon the failure to timely give such notice, the Notes shall be immediately subject to acceleration as provided in Section 6.02.

Special Interest that accrues on any Note pursuant to the provisions of this 0 shall be in addition to any Special Interest that may accrue on such Note pursuant to the provisions set forth in Section 4.06(d) and Section 4.06(e); *provided, however*, that in no event shall the rate of any such Special Interest payable under this 0, when taken together with any such Special Interest payable as set forth in Section 4.06(d) as a result of the Company's failure to timely file any document or report it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, exceed a total rate of 0.50% per annum on any Note as a result of the Company's failure to timely file any document or report it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, regardless of the number of such events or such circumstances giving rise to the requirement to pay such Special Interest.

Section 6.04. *Payments of Notes on Default; Suit Therefor.* If an Event of Default described in clause (a) or (b) of Section 6.01 shall have occurred, the Company shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of the Notes, (i) the whole amount then due and payable on the Notes for principal and Special Interest, if any, with no interest accruing on any overdue principal and Special Interest (if any), unless Special Interest is payable pursuant to this Indenture on the required payment date, in which case such amounts will accrue interest per annum at the then-applicable rate of Special Interest and to the extent that Special Interest remains payable pursuant to this Indenture, subject to the enforceability of such interest pursuant to applicable law, and (ii) in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee under Section 7.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.



In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under Bankruptcy Law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company, the property of the Company, or in the event of any other judicial proceedings relative to the Company upon the Notes, or to the creditors or property of the Company, the Trustee, irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 6.03, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid Special Interest, if any, pursuant to the immediately preceding paragraph in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceedings relative to the Company on the Notes, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Holders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for reasonable compensation, expenses, advances and disbursements, including agents and counsel fees, and including any other amounts due to the Trustee under Section 7.06, incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the Holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting such Holder or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee

shall be held to represent all the Holders of the Notes, and it shall not be necessary to make any Holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of any waiver pursuant to Section 6.09 or any rescission and annulment pursuant to Section 6.02 or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Holders and the Trustee shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Holders and the Trustee shall continue as though no such proceeding had been instituted.

Section 6.05. *Application of Monies Collected by Trustee.* Any monies collected by the Trustee pursuant to this Article 6 with respect to the Notes shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies, upon presentation of the several Notes, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

**First**, to the payment of all amounts due to the Trustee and its agents under Section 7.06;

**Second**, in case the principal of the outstanding Notes shall not have become due and be unpaid, to the payment of any Special Interest on, and any cash due upon conversion of, the Notes in default in the order of the date due of the payments of such interest and cash due upon conversion, as the case may be, with interest (to the extent that any such interest is payable pursuant to this Indenture and has been collected by the Trustee) upon such overdue payments at the rate of Special Interest, if any, at such time, such payments to be made ratably to the Persons entitled thereto;

**Third**, in case the principal of the outstanding Notes shall have become due, by declaration or otherwise, and be unpaid to the payment of the whole amount (including, if applicable, the payment of the Redemption Price and the Fundamental Change Repurchase Price and any cash due upon conversion) then owing and unpaid upon the Notes for principal and Special Interest, if any, with interest (to the extent that any such interest is payable pursuant to this Indenture and has been collected by the Trustee) on the overdue principal and Special Interest, if any, at the rate of Special Interest, if any, at such time, and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Notes, then to the payment of such principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price and any cash due upon conversion) and any Special Interest without preference or priority of principal over Special Interest, or of any Special Interest over principal, or of any installment of Special Interest over any other installment of Special Interest, or of any Note over any other Note, ratably to the aggregate of such principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price and any cash due upon conversion) and any accrued and unpaid Special Interest; and

**Fourth**, to the payment of the remainder, if any, to the Company.

Section 6.06. *Proceedings by Holders.* Except to enforce the right to receive payment of principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price) or any Special Interest when due, or the right to receive payment or delivery of the consideration due upon conversion, no Holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture or the Notes to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless:

(a) such Holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as herein provided;

(b) Holders of at least 25% in aggregate principal amount of the Notes then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder, *provided* that, in the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, with each group of Holders representing less than a majority in aggregate principal amount of Notes outstanding, the Trustee, in its sole discretion, may determine which action, if any, shall be taken;

(c) such Holders shall have provided to the Trustee such security or indemnity reasonably satisfactory to it against any loss, liability, claim or expense to be incurred therein or thereby;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of such security or indemnity, shall have not complied with such request; and

(e) no direction that, in the opinion of the Trustee, is inconsistent with such written request shall have been given to the Trustee by the Holders of a majority of the aggregate principal amount of the Notes then outstanding within such 60-day period pursuant to Section 6.09,

it being understood and intended, and being expressly covenanted by the taker and Holder of every Note with every other taker and Holder and the Trustee that no one or more of such Holders shall have any right in any manner whatever by virtue of or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other Holder, or to obtain or seek to obtain priority over or preference to any other such Holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders (except as otherwise provided herein). The Trustee shall not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to the rights of such Holders. For the protection and enforcement of this Section 6.06, each and every Holder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provision of this Indenture and any provision of any Note, each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid Special Interest, if any, on, and (z) the consideration due

upon conversion of, such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be.

Section 6.07. *Proceedings by Trustee.* In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law. The Trustee reserves the right to file a proof of claim or any other document necessary in order to have claims of the Holders and the Trustee allowed in any such judicial proceedings.

Section 6.08. *Remedies Cumulative and Continuing.* Except as provided in the last paragraph of Section 2.06, all powers and remedies given by this Article 6 to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the Holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 6.06, every power and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders.

Section 6.09. *Direction of Proceedings and Waiver of Defaults by Majority of Holders.* The Holders of a majority of the aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Notes; *provided, however,* that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. The Trustee may refuse to follow any direction that it determines is unduly prejudicial to the rights of any other Holder or that would involve the Trustee in personal liability. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 may on behalf of the Holders of all of the Notes waive any past Default or Event of Default hereunder and its consequences except (i) a default in the payment of accrued and unpaid Special Interest, if any, on, or the principal (including any Redemption Price and any Fundamental Change Repurchase Price) of, the Notes when due that has not been cured pursuant to the provisions of Section 6.01, (ii) a failure by the Company to pay or cause to be delivered, as the case may be, the consideration due upon conversion of the Notes or (iii) a default in respect of a covenant or provision hereof which under Article 10 cannot be modified or amended without the consent of each Holder of an outstanding Note affected. Upon any such waiver the Company, the Trustee and the Holders of the Notes shall be restored

to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.09, said Default or Event of Default shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.10. *Notice of Defaults.* The Trustee shall, within 90 days after the occurrence and continuance of a Default of which a Responsible Officer has actual knowledge, deliver to all Holders notice of all Defaults actually known to a Responsible Officer, unless such Defaults shall have been cured or waived before the giving of such notice; *provided* that, except in the case of a Default in the payment of the principal of (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), or any accrued and unpaid Special Interest on, any of the Notes or a Default in the payment or delivery of the consideration due upon conversion, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders.

Section 6.11. *Undertaking to Pay Costs.* All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided* that the provisions of this Section 6.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Notes at the time outstanding determined in accordance with Section 8.04, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or any accrued and unpaid Special Interest, if any, on any Note (including, but not limited to, the Redemption Price and the Fundamental Change Repurchase Price, if applicable) on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the right to convert any Note, or receive the consideration due upon conversion, in accordance with the provisions of Article 14.

## ARTICLE 7 CONCERNING THE TRUSTEE

Section 7.01. *Duties and Responsibilities of Trustee.* The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In the event an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; *provided* that if an Event of Default

occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have provided to the Trustee indemnity or security reasonably satisfactory to it against any loss, liability, claim or expense that might be incurred by it in compliance with such request or direction.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of gross negligence and willful misconduct on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved that the Trustee was grossly negligent in ascertaining the pertinent facts;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority of the aggregate principal amount of the Notes at the time outstanding determined as provided in Section 8.04 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(d) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section and Section 7.02;

(e) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the

Company or any Paying Agent or any records maintained by any co-Note Registrar with respect to the Notes;

(f) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred, unless a Responsible Officer of the Trustee had actual knowledge of such event;

(g) in the absence of written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing trust account, and in no event shall the Trustee be liable for the selection of investments or for investment losses incurred thereon or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investments prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amounts held hereunder in the absence of such written investment direction from the Company;

(h) in the event that the Trustee is also acting as Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent or transfer agent hereunder, the rights and protections afforded to the Trustee pursuant to this Article 7 shall also be afforded to such Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent or transfer agent;

(i) the Trustee shall have no duty to inquire, no duty to determine and no duty to monitor as to the performance of the Company's covenants in this Indenture or the financial performance of the Company; the Trustee shall be entitled to assume, until it has received written notice in accordance with this Indenture, that the Company is properly performing its duties hereunder;

(j) the Trustee shall be under no obligation to enforce any of the provisions of this Indenture unless it is instructed by Holders of at least 25% of the aggregate principal amount of outstanding Notes determined as provided in Section 8.04 and is provided with security and/or indemnity reasonably satisfactory to it; and

(k) the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee indemnity and/or security reasonably satisfactory to it against any costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

Section 7.02. *Reliance on Documents, Opinions, Etc.* Except as otherwise provided in Section 7.01:

(a) the Trustee may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) the Trustee may consult with counsel of its selection and require an Opinion of Counsel and any advice of such counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(e) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder;

(f) the permissive rights of the Trustee enumerated herein shall not be construed as duties;

(g) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(h) the Trustee, the Paying Agent, the Conversion Agent and the Note Registrar may refrain from taking any action in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction or, to the extent applicable, of New York; furthermore, the Trustee may also refrain from taking such action if it would otherwise render it liable to any Person in that jurisdiction or New York or if, in its opinion based on such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or in New York or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power;



(i) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(j) the Trustee shall not be deemed to have knowledge of an Event of Default except (i) any Event of Default described in Section 6.01(a), Section 6.01(b) or Section 6.01(c) or (ii) any Event of Default of which a Responsible Officer of the Trustee shall have received at the Corporate Trust Office written notification thereof from the Company or a Holder, and such notice references the Notes of this Indenture;

(k) the Trustee may request that the Company deliver Officers' Certificates setting forth the names of individuals and their titles and specimen signatures of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificates may be signed by any Person authorized to sign an Officers' Certificate, as the case may be, including any Person specified as so authorized in any such certificate previously delivered and not superseded;

(l) the Trustee shall not be responsible or liable for any action taken or omitted by it in good faith at the direction, in accordance with Section 6.09, of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 as to the time, method and place of conducting any proceeding for any remedy available to the Trustee or the exercising of any power conferred by this Indenture;

(m) The Trustee shall not be responsible for any inaccuracy in the information obtained from the Company or for any inaccuracy or omission in the records which may result from such information or any failure by the Trustee to perform its duties as set forth herein as a result of any inaccuracy or incompleteness; and

(n) neither the Trustee nor any agent thereof shall have any responsibility or liability for any actions taken or not taken by the Depositary.

In no event shall the Trustee be liable for any special, indirect, punitive, consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to the Trustee by the Company or by any Holder of the Notes.

*Section 7.03. No Responsibility for Recitals, Etc.* The recitals, statements, warranties and representations contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the accuracy or correctness of the same or the execution, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the

provisions of this Indenture. Notwithstanding the generality of the foregoing, each Holder shall be solely responsible for making its own independent appraisal of, and investigation into, the financial condition, creditworthiness, condition, affairs, status and nature of the Company, and the Trustee shall not at any time have any responsibility for the same and each Holder shall not rely on the Trustee in respect thereof. The Trustee shall have no responsibility or liability with respect to any information, statement or recital in the Offering Memorandum, prospectus, prospectus supplement or other disclosure material prepared or distributed with respect to any of the Notes.

*Section 7.04. Trustee, Paying Agents, Conversion Agents, Bid Solicitation Agent or Note Registrar May Own Notes.* The Trustee, any Paying Agent, any Conversion Agent, Bid Solicitation Agent (if other than the Company or any Affiliate thereof) or Note Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Conversion Agent, Bid Solicitation Agent or Note Registrar, and nothing herein shall obligate any of them to account for any profits earned from any business or transactional relationship.

*Section 7.05. Monies and ADSs to Be Held in Trust.* All monies and ADSs received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money and ADSs held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money or ADSs received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

*Section 7.06. Compensation and Expenses of Trustee.* The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee and the Company, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture in any capacity thereunder (including the reasonable compensation and the costs, expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by its gross negligence or willful misconduct. The Company also covenants to indemnify the Trustee in any capacity under this Indenture and any other document or transaction entered into in connection herewith and its agents and any authenticating agent for, and to hold them harmless against, any loss, claim (*provided* that the Company need not pay for settlement of any such claim made without its consent, which consent shall not be unreasonably withheld), damage, liability or expense incurred without gross negligence or willful misconduct on the part of the Trustee, its officers, directors, agents or employees, or such agent or authenticating agent, as the case may be, and arising out of or in connection with the acceptance or administration of this Indenture or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim of liability in the premises or the enforcement of this Section 7.06. The obligations of the Company under this Section 7.06 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured

by a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 6.05, funds held in trust herewith for the benefit of the Holders of particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.06 shall not be subordinate to any other liability or indebtedness of the Company. The obligation of the Company under this Section 7.06 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 7.06 shall extend to the officers, directors, agents and employees of the Trustee.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee and its agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 6.01(i) or Section 6.01(j) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

*Section 7.07. Officers' Certificate as Evidence.* Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Officers' Certificate, in the absence of gross negligence and willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

*Section 7.08. Eligibility of Trustee.* There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act (as if, for this purpose, the Trust Indenture Act were applicable hereto) to act as such and has a combined capital and surplus of at least \$50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign promptly in the manner and with the effect hereinafter specified in this Article.

*Section 7.09. Resignation or Removal of Trustee.* (a) The Trustee may at any time resign by giving written notice of such resignation to the Company and by delivering notice thereof to the Holders. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 45 days after the giving of such notice of resignation to the Holders, the resigning Trustee may, upon ten Business Days' notice to the Company and the Holders, petition any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a bona fide holder of a Note or

Notes for at least six months (or since the date of this Indenture) may, subject to the provisions of Section 6.11, on behalf of himself or herself and all others similarly situated, petition any such court for the appointment of a successor trustee at the expense of the Company. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.08 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(ii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in either case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, as determined in accordance with Section 8.04, may at any time remove the Trustee and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Holder, upon the terms and conditions and otherwise as in Section 7.09(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 7.09 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.10.

*Section 7.10. Acceptance by Successor Trustee.* Any successor trustee appointed as provided in Section 7.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due to it

pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by such trustee as such, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due to it pursuant to the provisions of Section 7.06.

No successor trustee shall accept appointment as provided in this Section 7.10 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 7.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 7.10, each of the Company and the successor trustee, at the written direction and at the expense of the Company shall deliver or cause to be delivered notice of the succession of such trustee hereunder to the Holders at their addresses as they shall appear on the Note Register. If the Company fails to deliver such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be delivered at the expense of the Company.

Section 7.11. *Succession by Merger, Etc.* Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee such corporation or other entity shall be eligible under the provisions of Section 7.08.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Notes in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12. *Trustee's Application for Instructions from the Company.* Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders

of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable to the Company for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the date any Officer that the Company has indicated to the Trustee should receive such application actually receives such application, unless any such Officer shall have consented in writing to any earlier date), unless, prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received written instructions in accordance with this Indenture in response to such application specifying the action to be taken or omitted.

## ARTICLE 8 CONCERNING THE HOLDERS

Section 8.01. *Action by Holders.* Whenever in this Indenture it is provided that the Holders of a specified percentage of the aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the Holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by Holders in person or by agent or proxy appointed in writing, or (b) by the record of the Holders voting in favor thereof at any meeting of Holders duly called and held in accordance with the provisions of Article 9, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Holders. Whenever the Company or the Trustee solicits the taking of any action by the Holders of the Notes, the Company or the Trustee may, but shall not be required to, fix in advance of such solicitation, a date as the record date for determining Holders entitled to take such action. The record date if one is selected shall be not more than fifteen days prior to the date of commencement of solicitation of such action.

Section 8.02. *Proof of Execution by Holders.* Subject to the provisions of Section 7.01, Section 7.02 and Section 9.05, proof of the execution of any instrument by a Holder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar. The record of any Holders' meeting shall be proved in the manner provided in Section 9.06.

Section 8.03. *Who Are Deemed Absolute Owners.* The Company, the Trustee, any authenticating agent, any Paying Agent, any Conversion Agent and any Note Registrar may deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal (including any Redemption Price and any Fundamental Change Repurchase Price) of and (subject to Section 2.03) accrued and unpaid Special Interest on such Note, for conversion of such Note and for all other purposes under this Indenture; and neither the Company nor the

Trustee nor any Paying Agent nor any Conversion Agent nor any Note Registrar shall be affected by any notice to the contrary. The sole registered holder of a Global Note shall be the Depository or its nominee. All such payments or deliveries so made to any Holder for the time being, or upon its order, shall be valid, and, to the extent of the sums or ADSs so paid or delivered, effectual to satisfy and discharge the liability for monies payable or ADSs deliverable upon any such Note. Notwithstanding anything to the contrary in this Indenture or the Notes following an Event of Default, any owner of a beneficial interest in a Global Note may directly enforce against the Company, without the consent, solicitation, proxy, authorization or any other action of the Depository or any other Person, such holder's right to exchange such beneficial interest for a Note in certificated form in accordance with the provisions of this Indenture.

Section 8.04. *Company-Owned Notes Disregarded.* In determining whether the Holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company, by any Subsidiary thereof or by any Affiliate of the Company or any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Responsible Officer actually knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 8.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company, a Subsidiary thereof or an Affiliate of the Company or a Subsidiary thereof. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 7.01, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

Section 8.05. *Revocation of Consents; Future Holders Bound.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the Holders of the percentage of the aggregate principal amount of the Notes specified in this Indenture in connection with such action, any Holder of a Note that is shown by the evidence to be included in the Notes the Holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Note. Except as aforesaid, any such action taken by the Holder of any Note shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Note and of any Notes issued in exchange or substitution therefor or upon registration of transfer thereof, irrespective of whether any notation in regard thereto is made upon such Note or any Note issued in exchange or substitution therefor or upon registration of transfer thereof.

ARTICLE 9  
HOLDERS' MEETINGS

Section 9.01. *Purpose of Meetings.* A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article 9 for any of the following purposes:

(a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder (in each case, as permitted under this Indenture) and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 6;

(b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article 7;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 10.02; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Notes under any other provision of this Indenture or under applicable law.

Section 9.02. *Call of Meetings by Trustee.* The Trustee may at any time call a meeting of Holders to take any action specified in Section 9.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 8.01, shall be delivered to Holders of such Notes. Such notice shall also be delivered to the Company. Such notices shall be delivered not less than 20 nor more than 90 days prior to the date fixed for the meeting.

Any meeting of Holders shall be valid without notice if the Holders of all Notes then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the Holders of all Notes then outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice.

Section 9.03. *Call of Meetings by Company or Holders.* In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% of the aggregate principal amount of the Notes then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have delivered the notice of such meeting within 20 days after receipt of such request, then the Company or such Holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 9.01, by delivering notice thereof as provided in Section 9.02.

Section 9.04. *Qualifications for Voting.* To be entitled to vote at any meeting of Holders a Person shall (a) be a Holder of one or more Notes on the record date pertaining to such meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more



Notes on the record date pertaining to such meeting. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 9.05. *Regulations.* Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 9.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in aggregate principal amount of the Notes represented at the meeting and entitled to vote at the meeting.

Subject to the provisions of Section 8.04, at any meeting of Holders each Holder or proxyholder shall be entitled to one vote for each \$1,000 principal amount of Notes held or represented by him or her; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Notes held by it or instruments in writing as aforesaid duly designating it as the proxy to vote on behalf of other Holders. Any meeting of Holders duly called pursuant to the provisions of Section 9.02 or Section 9.03 may be adjourned from time to time by the Holders of a majority of the aggregate principal amount of Notes represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 9.06. *Voting.* The vote upon any resolution submitted to any meeting of Holders shall be by written ballot on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the outstanding aggregate principal amount of the Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was delivered as provided in Section 9.02. The record shall show the aggregate principal amount of the Notes voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 9.07. *No Delay of Rights by Meeting.* Nothing contained in this Article 9 shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Notes.

## ARTICLE 10 SUPPLEMENTAL INDENTURES

Section 10.01. *Supplemental Indentures Without Consent of Holders.* Without the consent of any Holder, the Company, at the Company's expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

- (a) to cure any ambiguity, omission, defect or inconsistency;
- (b) to provide for the assumption by a Successor Company of the obligations of the Company under this Indenture pursuant to Article 11;
- (c) to add guarantees with respect to the Notes;
- (d) to secure the Notes;
- (e) to add to the covenants of the Company or Events of Default for the benefit of the Holders or surrender any right or power conferred upon the Company under this Indenture;
- (f) to make any change that does not adversely affect the rights of any Holder;
- (g) increase the Conversion Rate as provided in this Indenture;
- (h) provide for the acceptance of appointment of a successor Trustee or facilitate the administration of trusts under this Indenture by more than one Trustee;
- (i) irrevocably elect or eliminate a Settlement Method and/or a Specified Dollar Amount, or eliminate the Company's right to elect a Settlement Method;
- (j) in connection with any Merger Event, to provide that the Notes are convertible into Reference Property, subject to the provisions of Section 14.02, and make such related changes to the terms of the Notes to the extent expressly required by Section 14.07;
- (k) comply with the rules of the Depository, so long as such amendment does not adversely affect the rights of any Holder;

(l) if applicable, comply with any requirement of the Commission relating to the qualification of this Indenture under the Trust Indenture Act;

(m) to conform the provisions of this Indenture or the Notes to the “Description of notes” section of the Offering Memorandum, as evidenced in an Officers’ Certificate; or

(n) provide for the issuance of additional Notes in accordance with this Indenture.

Upon the written request of the Company, the Trustee is hereby authorized to, and shall join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture that affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 10.01 may be executed by the Company and the Trustee without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 10.02.

Section 10.02. *Supplemental Indentures with Consent of Holders.* With the consent (evidenced as provided in Article 8) of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding (determined in accordance with Article 8 and including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes), the Company, at the Company’s expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or any supplemental indenture or of modifying in any manner the rights of the Holders; *provided, however,* that, without the consent of each Holder of an outstanding Note affected, no such supplemental indenture shall:

(a) reduce the amount of Notes whose Holders must consent to an amendment;

(b) reduce the rate of or extend the stated time for payment of any Special Interest on any Note;

(c) reduce the principal of or extend the Maturity Date of any Note;

(d) make any change that adversely affects the conversion rights of any Notes;

(e) reduce the Redemption Price or the Fundamental Change Repurchase Price of any Note or amend or modify in any manner adverse to the Holders the Company’s obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(f) make any Note payable in a currency, or at a place of payment, other than that stated in the Note;

(g) change the ranking of the Notes;

(h) impair the right of any Holder to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(i) change the Company's obligation to pay Additional Amounts in respect of any Note; or

(j) make any change in this Article 10 that requires each Holder's consent or in the waiver provisions in Section 6.02 or Section 6.09.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any indenture supplemental hereto. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such supplemental indenture, whether or not such Holders remain Holders after such record date; provided, that unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

Upon the written request of the Company, and upon the filing with the Trustee of evidence of the consent of Holders as aforesaid and subject to Section 10.05, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

Holders do not need under this Section 10.02 to approve the particular form of any proposed supplemental indenture. It shall be sufficient if such Holders approve the substance thereof. After any such supplemental indenture becomes effective, the Company shall send to the Holders a notice briefly describing such supplemental indenture. However, the failure to give such notice to all the Holders, or any defect in the notice, will not impair or affect the validity of the supplemental indenture.

Section 10.03. *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture pursuant to the provisions of this Article 10, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes. This Indenture provides for the payment by the Company of all of the Trustee's fees and expenses, including counsel fees and expenses, associated with reviewing and executing any supplemental indenture hereto.

Section 10.04. *Notation on Notes.* Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 10 may, at the Company's request and expense, bear a notation in form approved by the Trustee as to any

matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture contained in any such supplemental indenture may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 18.10) and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding.

Section 10.05. *Evidence of Compliance of Supplemental Indenture to Be Furnished Trustee.* In addition to the documents required by Section 18.05, the Trustee shall receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article 10 is permitted or authorized by this Indenture hereto, and is the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms.

## ARTICLE 11 CONSOLIDATION, MERGER, SALE, CONVEYANCE AND LEASE

Section 11.01. *Company May Consolidate, Etc. on Certain Terms.* Subject to the provisions of Section 11.02, the Company shall not consolidate with, merge with or into, or sell, convey, transfer or lease all or substantially all of its properties and assets to another Person, unless:

(a) the resulting, surviving or transferee Person, if not the Company (the "**Successor Company**"), shall be a corporation organized and existing under the laws of Israel, the Islands of Bermuda, the British Virgin Islands, Cayman Islands, Canada, Germany, Guernsey, Jersey, France, the Netherlands, Belgium, Switzerland, Luxembourg, the Republic of Ireland, the United Kingdom, the United States of America, any State thereof or the District of Columbia, and the Successor Company (if not the Company) shall expressly assume, by supplemental indenture all of the obligations of the Company under the Notes and this Indenture (including the obligation to pay Additional Amounts as set forth in Section 4.10); and

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under this Indenture.

For purposes of this Section 11.01, the sale, conveyance, transfer or lease of all or substantially all of the properties and assets of one or more Subsidiaries of the Company to another Person, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Company to another Person. The provisions of this Article 11 shall not apply to the Company's conveyance, transfer, sale, lease or other disposition of all or substantially all of its assets between or among the Company and one of the Company's Wholly Owned Subsidiaries.

Section 11.02. *Successor Corporation to Be Substituted.* In case of any such consolidation, merger, sale, conveyance, transfer or lease and upon the assumption by the

Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and any accrued and unpaid Special Interest on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Company (if not the Company) shall succeed to and, except in the case of a lease of all or substantially all of the Company's properties and assets, shall be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the Officers of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, sale, conveyance or transfer (but not in the case of a lease), upon compliance with this Article 11 the Person named as the "Company" in the first paragraph of this Indenture (or any successor that shall thereafter have become such in the manner prescribed in this Article 11) may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture and the Notes.

In case of any such consolidation, merger, sale, conveyance, transfer or lease, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

Section 11.03. *Opinion of Counsel to Be Given to Trustee.* No such consolidation, merger, sale, conveyance, transfer or lease shall be effective unless the Trustee shall receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, conveyance, transfer or lease and any such assumption and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, complies with the provisions of this Article 11; provided that no Officers' Certificate or Opinion of Counsel shall be required to be delivered with respect to any transaction set forth in Section 11.01 where the resulting, surviving or transferee Person is the Company.

## ARTICLE 12

### IMMUNITY OF INCORPORATORS, SHAREHOLDERS, OFFICERS AND DIRECTORS

Section 12.01. *Indenture and Notes Solely Corporate Obligations.* No recourse for the payment of the principal of or any accrued and unpaid Special Interest on any Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any

obligation, covenant or agreement of the Company in this Indenture or in any supplemental indenture or in any Note, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, shareholder, employee, agent, Officer or director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of the Notes.

ARTICLE 13  
[INTENTIONALLY OMITTED]

ARTICLE 14  
CONVERSION OF NOTES

Section 14.01. *Conversion Privilege.* (a) Subject to and upon compliance with the provisions of this Article 14, each Holder of a Note shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is \$1,000 principal amount or an integral multiple thereof) of such Note (i) subject to satisfaction of the conditions described in Section 14.01(b), at any time prior to the close of business on the Business Day immediately preceding June 15, 2025 under the circumstances and during the periods set forth in Section 14.01(b), and (ii) regardless of the conditions described in Section 14.01(b), at any time during the period from, and including, June 15, 2025 to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, in each case, at an initial conversion rate of 3.3424 ADSs (subject to adjustment as provided in this Article 14, the "**Conversion Rate**") per \$1,000 principal amount of Notes (subject to, and in accordance with, the settlement provisions of Section 14.02, the "**Conversion Obligation**").

(b) (i) Prior to the close of business on the Business Day immediately preceding June 15, 2025, a Holder may surrender all or any portion of its Notes for conversion at any time during the five Business Day period immediately after any ten consecutive Trading Day period (the "**Measurement Period**") in which the Trading Price per \$1,000 principal amount of Notes, as determined following a request by a Holder of Notes in accordance with this subsection (b)(i), for each Trading Day of the Measurement Period was less than 98% of the product of the Last Reported Sale Price of the ADSs on each such Trading Day and the Conversion Rate on each such Trading Day. The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this subsection (b)(i) and the definition of Trading Price set forth in this Indenture. The Company shall provide written notice to the Bid Solicitation Agent (if other than the Company) of the three independent nationally recognized securities dealers selected by the Company pursuant to the definition of Trading Price, along with appropriate contact information for each. The Bid Solicitation Agent (if other than the Company) shall have no obligation to determine the Trading Price per \$1,000 principal amount of Notes unless the Company has requested such determination, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no obligation to

determine the Trading Price per \$1,000 principal amount of Notes) unless a Holder of at least \$1,000,000 principal amount of Notes requests in writing that we make such a determination and provides the Company with reasonable evidence that the Trading Price per \$1,000 principal amount of Notes on any Trading Day would be less than 98% of the product of the Last Reported Sale Price of the ADSs on such Trading Day and the Conversion Rate on such Trading Day, at which time the Company shall instruct the Bid Solicitation Agent (if other than the Company) to determine, or if the Company is acting as Bid Solicitation Agent, the Company shall determine, the Trading Price per \$1,000 principal amount of Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the ADSs and the Conversion Rate. If (x) the Company is not acting as Bid Solicitation Agent, and the Company does not instruct the Bid Solicitation Agent to determine the Trading Price per \$1,000 principal amount of Notes when obligated as provided in the preceding sentence, or if the Company instructs the Bid Solicitation Agent to obtain bids and the Bid Solicitation Agent fails to make such determination, or (y) the Company is acting as Bid Solicitation Agent and the Company fails to make such determination when obligated as provided in the preceding sentence, then, in either case, the Trading Price per \$1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the ADSs and the Conversion Rate on each Trading Day of such failure. If the Trading Price condition set forth above has been met, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing. If, at any time after the Trading Price condition set forth above has been met, the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the ADSs and the Conversion Rate for such date, the Company shall so notify the Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) in writing.

(ii) If, prior to the close of business on the Business Day immediately preceding June 15, 2025, the Company elects to:

(A) issue to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) any rights, options or warrants (other than in connection with a shareholder rights plan or rights agreement) entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs) at a price per Ordinary Share that is less than the average of the Last Reported Sale Prices of the ADSs, *divided* by the number of Ordinary Shares then represented by one ADS, for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance; or

(B) distribute to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) the Company's assets, securities or rights to purchase securities of the Company (other than in connection with a shareholder rights plan or rights agreement), which distribution has a per share value, as reasonably determined by the Board of Directors, exceeding 10% of (i) the Last Reported Sale Price of the ADSs on the Trading Day preceding the date of



announcement for such distribution, *divided* by (ii) the number of Ordinary Shares then represented by one ADS,

then, in either case, the Company shall notify all Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) at least 50 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution. Once the Company has given such notice, a Holder may surrender all or any portion of its Notes for conversion at any time until the earlier of (1) the close of business on the Business Day immediately preceding the Ex-Dividend Date for such issuance or distribution and (2) the Company's announcement that such issuance or distribution will not take place, in each case, even if the Notes are not otherwise convertible at such time. However, the Company will not be required to provide such notice, and the Notes will not be convertible pursuant to this Section 14.01(b)(ii) if each Holder of Notes participates, at the same time and upon the same terms as holders of the Ordinary Shares (directly or in the form of ADSs) and solely as a result of holding the Notes, in such issuance or distribution without having to convert its Notes as if such Holder held a number of Ordinary Shares (directly or in the form of ADSs) equal to the applicable Conversion Rate multiplied by the principal amount (expressed in thousands) of Notes held by such Holder.

(iii) If (x) a transaction or event that constitutes a Fundamental Change or a Make-Whole Fundamental Change occurs prior to the close of business on the Business Day immediately preceding June 15, 2025, regardless of whether a Holder has the right to require the Company to repurchase the Notes pursuant to Section 15.02, or (y) the Company is a party to a consolidation, merger, binding share exchange (other than a consolidation, merger or binding share exchange effected solely to change the Company's domicile of incorporation), or a transfer or lease of all or substantially all of the consolidated assets of the Company and its subsidiaries, taken as a whole, that occurs prior to the close of business on the Business Day immediately preceding June 15, 2025, in each case, pursuant to which the Ordinary Shares (directly or in the form of the ADSs) would be converted into cash, securities or other assets, then all or any portion of a Holder's Notes may be surrendered for conversion at any time from or after the effective date of such transaction until the date that is 35 Trading Days after the actual effective date of such transaction or, if such transaction also constitutes a Fundamental Change (other than an Exempted Fundamental Change), until the close of business on the second Scheduled Trading Day immediately preceding the related Fundamental Change Repurchase Date. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing no later than the fifth Business Day following the actual effective date of such transaction.

(iv) Prior to the close of business on the Business Day immediately preceding June 15, 2025, a Holder may surrender all or any portion of its Notes for conversion at any time during any calendar quarter commencing after the calendar quarter ending on December 31, 2020 (and only during such calendar quarter), if the Last Reported Sale Price of the ADSs for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter is greater than or equal to 130% of the Conversion Price on each applicable Trading Day.

(v) If the Company calls any Note for Tax Redemption pursuant to Article 16 or Optional Redemption pursuant to Article 17, then the Holder of a Note called for Redemption may convert such Note (or a portion thereof) at any time during the Redemption Period, even if such Note is not otherwise convertible at such time. After that time, the right to convert such Note on account of the Company's delivery of a Redemption Notice shall expire, unless the Company defaults in the payment of the Redemption Price, in which case a Holder of the Note called for Redemption may convert such Note (or any portion thereof) until the Redemption Price has been paid or duly provided for. If the Company elects to redeem less than all of the outstanding Notes pursuant to Article 17 and the Holder of any Note (or any owner of a beneficial interest in any Global Note) is reasonably not able to determine, before the close of business on the 45th Scheduled Trading Day immediately before the relevant Optional Redemption Date, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Optional Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the close of business on the second Scheduled Trading Day immediately prior to such Optional Redemption Date (unless the Company defaults in the payment of the Redemption Price, in which case a Holder may convert such Note or beneficial interest, as the case may be, until the Redemption Price has been paid or duly provided for), and each such conversion will be deemed to be of a Note called for Optional Redemption.

Section 14.02. *Conversion Procedure; Settlement Upon Conversion.*

(a) Subject to this Section 14.02, Section 14.03(b) and Section 14.07(a), upon conversion of any Note, the Company shall pay or cause to be delivered, as the case may be, to the converting Holder, in respect of each \$1,000 principal amount of Notes being converted, cash ("**Cash Settlement**"), ADSs, together with cash, if applicable, in lieu of delivering any fractional ADSs ("**Fractional ADSs**") in accordance with subsection (j) of this Section 14.02 ("**Physical Settlement**") or a combination of cash and ADSs, together with cash, if applicable, in lieu of delivering any Fractional ADS in accordance with subsection (j) of this Section 14.02 ("**Combination Settlement**"), at its election, as set forth in this Section 14.02.

(i) All conversions for which the relevant Conversion Date occurs on or after a Redemption Notice Date and prior to the close of business on the second Scheduled Trading Day immediately preceding the related Redemption Date, and all conversions for which the relevant Conversion Date occurs on or after June 15, 2025 shall be settled using the same Settlement Method.

(ii) Except for any conversions for which the relevant Conversion Date occurs after a Redemption Notice Date but prior to the close of business on the second Scheduled Trading Day immediately preceding the related Redemption Date and any conversions for which the relevant Conversion Date occurs on or after June 15, 2025, the Company shall use the same Settlement Method for all conversions with the same Conversion Date, but the Company shall not have any obligation to use the same Settlement Method with respect to conversions with different Conversion Dates.

(iii) (A) If, in respect of any Conversion Date (subject to the below proviso), the Company elects to deliver a notice (the “**Settlement Notice**”) of the relevant Settlement Method in respect of such Conversion Date, the Company, through written notice to the Trustee, shall deliver such Settlement Notice to converting Holders no later than the close of business on the Trading Day immediately following the relevant Conversion Date; *provided* that in the case of any conversions (x) of Notes called (or deemed called) for Redemption for which the relevant Conversion Date occurs on or after the relevant Redemption Notice Date and prior to the close of business on the second Scheduled Trading Day immediately preceding the related Redemption Date, the Company shall do so in the related Redemption Notice or (y) on or after June 15, 2025, no later than June 15, 2025 (in each case, the “**Settlement Method Election Deadline**”). If the Company does not elect a Settlement Method prior to the deadline set forth in the immediately preceding sentence, the Company shall no longer have the right to elect Cash Settlement or Physical Settlement and the Company shall be deemed to have elected Combination Settlement in respect of its Conversion Obligation, and the Specified Dollar Amount per \$1,000 principal amount of Notes shall be equal to \$1,000 (such settlement method, the “**Default Settlement Method**” initially elected by the Company). Such Settlement Notice shall specify the relevant Settlement Method and in the case of an election of Combination Settlement, the relevant Settlement Notice shall indicate the Specified Dollar Amount per \$1,000 principal amount of Notes. If the Company delivers a Settlement Notice electing Combination Settlement in respect of its Conversion Obligation but does not indicate a Specified Dollar Amount per \$1,000 principal amount of Notes in such Settlement Notice, the Specified Dollar Amount per \$1,000 principal amount of Notes shall be deemed to be \$1,000. For the avoidance of doubt, the Company’s failure to timely elect a Settlement Method shall not constitute a Default or Event of Default under this Indenture.

(B) The Company may, by written notice to Holders, the Trustee and the Conversion Agent (if other than the Trustee), on or before June 15, 2025, (1) change the Default Settlement Method to any Settlement Method that the Company is then permitted to elect, including Combination Settlement with a Specified Dollar Amount per \$1,000 principal amount of Notes of \$1,000 or (2) elect to irrevocably fix the Settlement Method to Combination Settlement with an ability to continue to set the Specified Dollar Amount per \$1,000 principal amount of Notes at or above any specific amount up to, but no greater than, \$1,000 per \$1,000 principal amount of Notes set forth in such election notice, in each case, that will apply to all Note conversions with a Conversion Date that is on or after the date the Company sends such notice. If the Company changes the Default Settlement Method or elects to irrevocably fix the Settlement Method, in either case, to Combination Settlement with an ability to continue to set the Specified Dollar Amount per \$1,000 principal amount of Notes at or above a specified amount (for the avoidance of doubt, up to, but no greater than, \$1,000 per \$1,000 principal amount of Notes in the case of an irrevocable election), the Company shall, after the date of such change or election, as the case may be, inform Holders converting their Notes, the Trustee and the Conversion Agent (if other than the Trustee) in writing of such Specified Dollar Amount in respect of

the relevant conversion or conversions no later than the relevant Settlement Method Election Deadline for such conversion or conversions, or, if the Company does not timely inform the Holders, the Trustee and the Conversion Agent of the Specified Dollar Amount, such Specified Dollar Amount shall be the specific amount set forth in the change or election notice or, if no specific amount was set forth in the change or election notice, such Specified Dollar Amount shall be deemed to be \$1,000 per \$1,000 principal amount of Notes. If the Company changes the Default Settlement Method or irrevocably fixes the Settlement Method, then the Company shall concurrently either post the Default Settlement Method or fixed Settlement Method, as applicable, on the Company's website or disclose the same in a current report that is filed or furnished with the Commission. Notwithstanding the foregoing, no such change in the Default Settlement Method or irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Conversion Date pursuant to this Section 14.02. For the avoidance of doubt, such change or election (as the case may be), if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to Section 10.01(j). However, the Company may nonetheless choose to execute such an amendment at the Company's option.

(iv) The cash, ADSs or combination of cash and ADSs in respect of any conversion of Notes (the "**Settlement Amount**") shall be computed as follows:

(A) if the Company elects to satisfy its Conversion Obligation in respect of such conversion by Physical Settlement, the Company shall cause to be delivered to the converting Holder in respect of each \$1,000 principal amount of Notes being converted a number of ADSs equal to the applicable Conversion Rate in effect on the Conversion Date;

(B) if the Company elects to satisfy its Conversion Obligation in respect of such conversion by Cash Settlement, the Company shall pay to the converting Holder in respect of each \$1,000 principal amount of Notes being converted cash in an amount equal to the sum of the Daily Conversion Values for each of the 40 consecutive Trading Days during the related Observation Period; and

(C) if the Company elects (or is deemed to have elected) to satisfy its Conversion Obligation in respect of such conversion by Combination Settlement, the Company shall pay or cause to be delivered, as the case may be, in respect of each \$1,000 principal amount of Notes being converted, a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 40 consecutive Trading Days during the related Observation Period.

(v) The Daily Settlement Amounts (if applicable) and the Daily Conversion Values (if applicable) shall be determined by the Company promptly following the last day of the Observation Period. Promptly after such determination of the Daily Settlement

Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of delivering any Fractional ADS, the Company shall notify the Trustee and the Conversion Agent (if other than the Trustee) in writing of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of delivering Fractional ADS. The Trustee and the Conversion Agent (if other than the Trustee) shall have no responsibility for any such determination.

(b) Subject to Section 14.02(e), before any Holder of a Note shall be entitled to convert a Note as set forth above, such Holder shall (i) in the case of a Global Note, comply with the procedures of the Depository in effect at that time, the relevant Deposit Agreement and, if required, pay funds equal to any Special Interest payable on the next Special Interest Payment Date as set forth in Section 14.02(h) and pay all transfer or similar taxes, if any, required pursuant to Section 14.02(e) and (ii) in the case of a Physical Note (1) complete, manually sign and deliver an irrevocable notice to the Conversion Agent as set forth in the Form of Notice of Conversion (or a facsimile thereof) (a “**Notice of Conversion**”) at the office of the Conversion Agent and state in writing therein the principal amount of Notes to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any ADSs to be delivered upon settlement of the Conversion Obligation to be registered, (2) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents), at the office of the Conversion Agent, (3) if required, furnish appropriate endorsements and transfer documents, (4) comply with the relevant Deposit Agreement and (5) if required, pay funds equal to Special Interest payable on the next Special Interest Payment Date as set forth in Section 14.02(h). The Trustee (and if different, the Conversion Agent) shall notify the Company of any conversion pursuant to this Article 14 on the Conversion Date for such conversion. No Notice of Conversion with respect to any Notes may be surrendered by a Holder thereof if such Holder has also delivered a Fundamental Change Repurchase Notice to the Company in respect of such Notes and has not validly withdrawn such Fundamental Change Repurchase Notice in accordance with Section 15.03.

If more than one Note shall be surrendered for conversion at one time by the same Holder, the Conversion Obligation with respect to such Notes shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

(c) A Note shall be deemed to have been converted immediately prior to the close of business on the date (the “**Conversion Date**”) that the Holder has complied with the requirements set forth in subsection (b) above. Except as set forth in Section 14.03(b) and Section 14.07(a), the Company shall pay or cause to be delivered, as the case may be, the consideration due in respect of the Conversion Obligation (i) on the second Business Day immediately following the relevant Conversion Date, if the Company elects Physical Settlement (unless such Conversion Date occurs following September 1, 2025, in which case the Company will deliver the relevant consideration on the Maturity Date), or (ii) on the second Business Day immediately following the last Trading Day of the Observation Period, in the case of any other Settlement Method. If any ADSs are due to a converting Holder, the Company shall issue or cause to be issued, and cause to be delivered (if applicable) to the Conversion Agent or to such Holder, or such Holder’s nominee or nominees, the full number of ADSs to which such Holder

shall be entitled, in book-entry format through the Depository, in satisfaction of the Company's Conversion Obligation.

(d) In case any Note shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder of the Note so surrendered a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Note, without payment of any service charge by the converting Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such conversion being different from the name of the Holder of the old Notes surrendered for such conversion.

(e) If a Holder submits a Note for conversion, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the delivery of any ADSs upon conversion of the Notes (or the issuance of the underlying Ordinary Shares), unless the tax is due because the Holder requests any ADSs (or the underlying Ordinary Shares) to be issued in a name other than the Holder's name, in which case the Holder shall pay that tax. The Conversion Agent may refuse to deliver the certificates representing the ADSs being issued in a name other than the Holder's name until the Trustee receives a sum sufficient to pay any tax that is due by such Holder in accordance with the immediately preceding sentence. The Company shall pay and/or indemnify each Holder and beneficial owner of the Notes and/or ADSs (if any) deliverable upon conversion of the Notes for applicable fees and expenses payable to, or withheld by, the ADS depository (including, for the avoidance of doubt, by means of a reduction in any amounts or property payable or deliverable in respect of any ADSs or in the value of deposited amounts or property represented by any ADSs) for the issuance of all ADSs deliverable upon conversion (including, with respect to any ADSs subject to restricted CUSIP and/or restrictive legends upon issuance, any of the foregoing with respect to the removal of any such restrictions from such ADSs). Except as provided in this Section 14.02 in relation to the fees and expenses of the ADS Depository that the Company shall pay and/or indemnify, holders of the ADSs may be required to pay fees and expenses set forth in the relevant Deposit Agreement.

(f) Except as provided in Section 14.04, no adjustment shall be made for dividends on any ADSs issued upon the conversion of any Note as provided in this Article 14.

(g) Upon the conversion of an interest in a Global Note, the Trustee, or the Note Registrar at the direction of the Trustee, shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(h) Upon conversion, a Holder shall not receive any separate cash payment for accrued and unpaid Special Interest, if any, except as set forth below, and the Company will not adjust the Conversion Rate for any accrued and unpaid Special Interest on any converted Notes. The Company's settlement of the full Conversion Obligation shall be deemed to satisfy in full its obligation to pay the principal amount of the Note and accrued and unpaid Special Interest, if

any, to, but not including, the relevant Conversion Date. As a result, accrued and unpaid Special Interest, if any, to, but not including, the relevant Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of Notes into a combination of cash and ADSs, accrued and unpaid Special Interest will be deemed to be paid first out of the cash paid upon such conversion. Notwithstanding the foregoing, if Notes are converted after the close of business on a Special Interest Record Date, Holders of such Notes as of the close of business on such Special Interest Record Date will receive the full amount of Special Interest payable on such Notes on the corresponding Special Interest Payment Date notwithstanding the conversion. Notes surrendered for conversion during the period from the close of business on any Special Interest Record Date to the open of business on the immediately following Special Interest Payment Date must be accompanied by funds equal to the amount of Special Interest payable on the Notes so converted; *provided* that no such payment shall be required (1) for conversions following September 1, 2025; (2) if the Company has specified a Redemption Date that is after a Special Interest Record Date and on or prior to the second Scheduled Trading Day immediately following the corresponding Special Interest Payment Date; (3) if the Company has specified a Fundamental Change Repurchase Date that is after a Special Interest Record Date and on or prior to the second Scheduled Trading Day immediately following the corresponding Special Interest Payment Date; or (4) to the extent of any Defaulted Amounts, if any Defaulted Amounts exists at the time of conversion with respect to such Note. Therefore, for the avoidance of doubt, all Holders of record as of the close of business on September 1, 2025, or a Fundamental Change Repurchase Date or a Redemption Date shall receive the full Special Interest payment due on the corresponding Special Interest Payment Date in cash regardless of whether their Notes have been converted following such Special Interest Record Date or September 1, 2025, as the case may be.

(i) The Person in whose name the ADSs, if any, shall be issuable upon conversion shall be treated as a shareholder of record as of the close of business on the relevant Conversion Date (if the Company elects to satisfy the related Conversion Obligation by Physical Settlement) or the last Trading Day of the relevant Observation Period (if the Company elects to satisfy the related Conversion Obligation by Combination Settlement), as the case may be. Upon a conversion of Notes, such Person shall no longer be a Holder of such Notes surrendered for conversion.

(j) The Company shall not issue any Fractional ADS upon conversion of the Notes and shall instead pay cash in lieu of delivering any Fractional ADS otherwise issuable upon conversion based on the Daily VWAP for the relevant Conversion Date (or, if such Conversion Date is not a Trading Day, the immediately preceding Trading Day), in the case of Physical Settlement, or based on the Daily VWAP for the last Trading Day of the relevant Observation Period, in the case of Combination Settlement. For each Note surrendered for conversion, if the Company has elected (or is deemed to have elected) Combination Settlement, the full number of shares that shall be issued upon conversion thereof shall be computed on the basis of the aggregate Daily Settlement Amounts for the relevant Observation Period and Fractional ADSs remaining after such computation shall be paid in cash.

(k) In accordance with the relevant Deposit Agreement, the Company will issue to the custodian thereunder such Ordinary Shares required for the issuance of the ADSs upon

conversion of the Notes, plus written delivery instructions (if requested by the ADS Depository or the custodian thereunder) for such ADSs, will deliver such legal opinions and any other information or documentation and will comply with the relevant Deposit Agreement, in each case, as required by the ADS Depository or the custodian thereunder in connection with each issue of Ordinary Shares and issuance and delivery of the ADSs.

Section 14.03. *Increased Conversion Rate Applicable to Certain Notes Surrendered in Connection with a Make-Whole Fundamental Change or Redemption Notice.* (a) If (i) (X) the Effective Date of a Make-Whole Fundamental Change occurs prior to the Maturity Date or (Y) the Company delivers a Redemption Notice, and (ii) a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change or Redemption Notice, the Company shall, under the circumstances described below, increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional ADSs (the “**Additional ADSs**”), as described below. A conversion of Notes shall be deemed for these purposes to be “in connection with” such Make-Whole Fundamental Change if the relevant Conversion Date occurs during the period from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the second Scheduled Trading Day immediately prior to the related Fundamental Change Repurchase Date (or, in the case of an Exempted Fundamental Change or a Make-Whole Fundamental Change that would have been a Fundamental Change but for the *proviso* in clause (b) of the definition thereof, the 35th Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change) (such period, the “**Make-Whole Fundamental Change Period**”). A conversion of Notes shall be deemed for these purposes to be “in connection with” such Redemption Notice if the relevant Conversion Date with respect to the Notes called (or deemed called) for Redemption occurs during the related Redemption Period. For the avoidance of doubt, the Company shall increase the Conversion Rate hereunder in connection with a Redemption Notice only in respect of conversions of the Notes called (or deemed called) for Redemption, and not of the Notes not called (or deemed called) for Redemption. Accordingly, if the Company elects to redeem fewer than all of the outstanding Notes pursuant to Section 17.01, Holders of the Notes not called for Optional Redemption will not be entitled to convert such Notes (at an increased Conversion Rate for such Notes or otherwise) on account of such Optional Redemption, except in the limited circumstances set forth under Section 14.01(b)(v).

(b) Upon surrender of Notes for conversion in connection with a Make-Whole Fundamental Change or a Redemption Notice, the Company shall, at its option, satisfy the related Conversion Obligation by Physical Settlement, Cash Settlement or Combination Settlement in accordance with Section 14.02; *provided, however*, that if, at the effective time of a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Reference Property following such Make-Whole Fundamental Change is composed entirely of cash, then, for any conversion of Notes with a Conversion Date occurring on or after the Effective Date of such Make-Whole Fundamental Change, the Conversion Obligation shall be calculated based solely on the ADS Price for the transaction and shall be deemed to be an amount of cash per \$1,000 principal amount of converted Notes equal to the Conversion Rate on such Conversion Date (including any adjustment for Additional ADSs), *multiplied by* the ADS Price. In such event, the Conversion Obligation shall be paid to Holders in cash on the second



Business Day following the Conversion Date. The Company shall provide notice of each Make-Whole Fundamental Change in the manner described under Section 14.01(b)(iii).

(c) The number of Additional ADSs, if any, by which the Conversion Rate shall be increased shall be determined by reference to the table below, based on (i)(x) in the case of a Make-Whole Fundamental Change, the date on which the Make-Whole Fundamental Change occurs or becomes effective or, (y) in the case of a Redemption Notice, the relevant Redemption Notice Date (in each case, the “**Effective Date**”) and (ii)(x) in the case of a Make-Whole Fundamental Change, the price paid (or deemed to be paid) per ADS in the Make-Whole Fundamental Change or (y) in the case of a Redemption Notice, the average of the Last Reported Sale Prices of the ADSs over the five consecutive Trading Days ending on, and including, the Trading Day immediately preceding the relevant Redemption Notice Date (in each case, the “**ADS Price**”). If the holders of the ADSs receive in exchange for their ADSs only cash in a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the ADS Price shall be the cash amount paid per ADS. In the case of any other Make-Whole Fundamental Change, the ADS Price shall be the average of the Last Reported Sale Prices of the ADSs over the five consecutive Trading Days ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change. In the event that a conversion during a Redemption Period would also be deemed to be in connection with a Make-Whole Fundamental Change or in connection with another Redemption Period, a Holder of Notes to be converted will be entitled to a single increase to the Conversion Rate with respect to the first to occur of the earliest applicable Redemption Notice Date and the Effective Date of any applicable Make-Whole Fundamental Change, and the later event(s) will be deemed not to have occurred for purposes of this Section with respect to such conversion. The Company shall make appropriate adjustments to the ADS Price, in its good faith determination, to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, Effective Date (as such term is used in Section 14.04) or expiration date of the event occurs during such any five consecutive Trading Day period during which the ADS Price is to be calculated.

(d) The ADS Prices set forth in the column headings of the table below shall be adjusted as of any date on which the Conversion Rate of the Notes is otherwise adjusted. The adjusted ADS Prices shall equal the ADS Prices applicable immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the ADS Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional ADSs set forth in the table below shall be adjusted in the same manner and at the same time as the Conversion Rate as set forth in Section 14.04.

(e) The following table sets forth the number of Additional ADSs by which the Conversion Rate shall be increased per \$1,000 principal amount of Notes pursuant to this Section 14.03 for each ADS Price and Effective Date set forth below:

Effective Date	ADS Price												
	\$217.59	\$225.00	\$250.00	\$275.00	\$299.19	\$325.00	\$350.00	\$388.94	\$400.00	\$425.00	\$500.00	\$600.00	\$750.00
August 27, 2020 .....	1.2533	1.1557	0.8841	0.6811	0.5318	0.4101	0.3195	0.2169	0.1510	0.0901	0.0388	0.0092	0.0000
September 15, 2021 .....	1.2533	1.1477	0.8648	0.6552	0.5027	0.3798	0.2898	0.1898	0.1275	0.0717	0.0273	0.0045	0.0000
September 15, 2022 .....	1.2533	1.1312	0.8342	0.6167	0.4607	0.3375	0.2493	0.1544	0.0977	0.0498	0.0151	0.0009	0.0000
September 15, 2023 .....	1.2533	1.1066	0.7888	0.5597	0.3996	0.2773	0.1932	0.1081	0.0613	0.0257	0.0045	0.0000	0.0000
September 15, 2024 .....	1.2533	1.1020	0.7216	0.4695	0.3020	0.1841	0.1114	0.0485	0.0206	0.0046	0.0000	0.0000	0.0000
September 15, 2025 .....	1.2533	1.1020	0.6576	0.2940	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact ADS Price and Effective Date may not be set forth in the table above, in which case:

(i) if the ADS Price is between two ADS Prices in the table above or the Effective Date is between two Effective Dates in the table, the number of Additional ADSs shall be determined by a straight-line interpolation between the number of Additional ADSs set forth for the higher and lower ADS Prices and the earlier and later Effective Dates, as applicable, based on a 365 or 366-day year, as applicable;

(ii) if the ADS Price is greater than \$750.00 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional ADSs shall be added to the Conversion Rate; and

(iii) if the ADS Price is less than \$217.59 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional ADSs shall be added to the Conversion Rate.

Notwithstanding the foregoing, in no event shall the Conversion Rate per \$1,000 principal amount of Notes exceed 4.5957 ADSs, subject to adjustment in the same manner as the Conversion Rate pursuant to Section 14.04.

(f) Nothing in this Section 14.03 shall prevent an adjustment to the Conversion Rate pursuant to Section 14.04 in respect of a Make-Whole Fundamental Change.

*Section 14.04. Adjustment of Conversion Rate.* If the number of Ordinary Shares represented by the ADSs is changed, after the date of this Indenture, for any reason other than one or more of the events described in this Section 14.04, the Company shall make an appropriate adjustment to the Conversion Rate such that the number of Ordinary Shares represented by the ADSs upon which conversion of the Notes is based remains the same.

Notwithstanding the adjustment provisions described in this Section 14.04, if the Company distributes to holders of the Ordinary Shares any cash, rights, options, warrants, shares of Capital Stock or similar equity interest, evidences of indebtedness or other assets or property

of the Company (but excluding Expiring Rights) and a corresponding distribution is not made to holders of the ADSs, but, instead, the ADSs shall represent, in addition to Ordinary Shares, such cash, rights, options, warrants, shares of Capital Stock or similar equity interest, evidences of indebtedness or other assets or property of the Company, then an adjustment to the Conversion Rate described in this Section 14.04 shall not be made until and unless a corresponding distribution (if any) is made to holders of the holders of the ADSs, and such adjustment to the Conversion Rate shall be based on the distribution made to the holders of the ADSs and not on the distribution made to the holders of the Ordinary Shares. However, in the event that the Company issues or distributes to all holders of the Ordinary Shares any Expiring Rights, notwithstanding the immediately preceding sentence, the Company shall adjust the Conversion Rate pursuant to Section 14.04(b) (in the case of Expiring Rights entitling holders of the Ordinary Shares for a period of not more than 45 calendar days after the announcement date of such issuance to subscribe for or purchase Ordinary Shares or ADSs) or Section 14.04(c) (in the case of all other Expiring Rights).

For the avoidance of doubt, if any event described in this Section 14.04 results in a change to the number of Ordinary Shares represented by the ADSs, then such a change shall be deemed to satisfy the Company's obligation to effect the relevant adjustment to the Conversion Rate on account of such an event to the extent such change produces the same economic effect as the relevant adjustment to the Conversion Rate would have produced in the absence of the change to the number of Ordinary Shares represented by the ADSs.

The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs, except that the Company shall not make any adjustments to the Conversion Rate if Holders of the Notes participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the ADSs and solely as a result of holding the Notes, in any of the transactions described in this Section 14.04, without having to convert their Notes, as if they held a number of ADSs equal to the Conversion Rate, *multiplied* by the principal amount (expressed in thousands) of Notes held by such Holder.

(a) If the Company exclusively issues Ordinary Shares as a dividend or distribution on Ordinary Shares, or if the Company effects a share split or share combination, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as applicable;

- CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date or Effective Date;
- OS<sub>0</sub> = the number of Ordinary Shares outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date (before giving effect to any such dividend, distribution, share split or share combination); and
- OS' = the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 14.04(a) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 14.04(a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company issues to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) any rights, options or warrants (other than pursuant to a shareholders rights plan or rights agreement) entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs) at a price per Ordinary Share that is less than the average of the Last Reported Sale Prices of the Ordinary Shares or the ADSs, as the case may be (*divided by*, in the case of the ADSs, the number of Ordinary Shares then represented by one ADS) for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

- CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such issuance;
- CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;
- OS<sub>0</sub> = the number of Ordinary Shares (directly or in the form of ADSs) outstanding immediately prior to the open of business on such Ex-Dividend Date;
- X = the total number of Ordinary Shares directly or in the form of ADSs) issuable pursuant to such rights, options or warrants; and

Y = the number of Ordinary Shares equal to (i) the aggregate price payable to exercise such rights, options or warrants, *divided by* (ii) the quotient of (a) the average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the issuance of such rights, options or warrants *divided by* (b) the number of Ordinary Shares then represented by one ADS.

Any increase made under this Section 14.04(b) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the open of business on the Ex-Dividend Date for such issuance. To the extent that Ordinary Shares or the ADSs are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of Ordinary Shares actually delivered (directly or in the form of ADSs). If such rights, options or warrants are not so issued, or if no such rights, options or warrants are exercised prior to their expiration, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such Ex-Dividend Date for such issuance had not occurred.

For purposes of this Section 14.04(b) and for the purpose of Section 14.01(b)(ii)(A), in determining whether any rights, options or warrants entitle the holders of the Ordinary Shares to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs) at a price per Ordinary Share that is less than such average of the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares represented by one ADS), for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such issuance, and in determining the aggregate offering price of such Ordinary Shares (directly or in the form of ADSs), there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) If the Company distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs), excluding (i) dividends, distributions or issuances as to which an adjustment is effective (or would be effected but for the 1% Exception) pursuant to Section 14.04(a) or Section 14.04(b), (ii) rights issued under a shareholder rights plan or rights agreement (except as described in Section 14.11), (iii) dividends or distributions paid exclusively in cash as to which the provisions set forth in Section 14.04(d) shall apply, (iv) distributions of Reference Property in exchange for or upon conversion of the Ordinary Shares in a transaction described in Section 14.07, and (v) Spin-Offs as to which the provisions set forth below in this Section 14.04(c) shall apply (any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the “**Distributed Property**”), then the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;

SP<sub>0</sub> = the average of the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Board of Directors) of the Distributed Property with respect to each outstanding Ordinary Share (directly or in the form of ADSs) on the Ex-Dividend Date for such distribution.

Any increase made under the portion of this Section 14.04(c) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if “FMV” (as defined above) is equal to or greater than “SP<sub>0</sub>” (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of the ADSs receive the Distributed Property, the amount and kind of Distributed Property such Holder would have received if such Holder owned a number of ADSs equal to the Conversion Rate in effect on the Record Date for the ADSs for the distribution. If the Board of Directors determines the “FMV” (as defined above) of any distribution for purposes of this Section 14.04(c) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market over the same period used in computing the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

If the Company issues rights, options or warrants that are only exercisable upon the occurrence of certain triggering events, then it will not adjust the Conversion Rate pursuant to the foregoing in this Section 14.04(c) until the earliest of these triggering events occurs; *provided* that the rights, options or warrants trade together with the Ordinary Shares (directly or in the form of the ADSs) and will be issued in respect of future issuances of the Ordinary Shares (directly or in the form of ADSs).

With respect to an adjustment pursuant to this Section 14.04(c) where there has been a payment of a dividend or other distribution on the Ordinary Shares (directly or in the form of ADSs) of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company, that are, or, when issued, will be, listed or

admitted for trading on a U.S. national securities exchange (a “**Spin-Off**”), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the end of the Valuation Period;

CR' = the Conversion Rate in effect immediately after the end of the Valuation Period;

FMV<sub>0</sub> = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Ordinary Shares (directly or in the form of ADSs) applicable to one Ordinary Share (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to the ADSs were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the “**Valuation Period**”); and

MP<sub>0</sub> = the average of the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) over the Valuation Period.

The increase to the Conversion Rate under the preceding paragraph shall occur immediately after the end of the Valuation Period; *provided* that (x) in respect of any conversion of Notes for which Physical Settlement is applicable, if the relevant Conversion Date occurs during the Valuation Period, references to “10” in the preceding paragraph shall be deemed to be replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date of such Spin-Off to, and including, such Conversion Date in determining the Conversion Rate and (y) in respect of any conversion of Notes for which Cash Settlement or Combination Settlement is applicable, for any Trading Day that falls within the relevant Observation Period for such conversion and within the Valuation Period, references to “10” in the preceding paragraph shall be deemed to be replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date of such Spin-Off to, and including, such Trading Day in determining the Conversion Rate as of such Trading Day.

For purposes of this Section 14.04(c) (and subject in all respect to Section 14.11), rights, options or warrants distributed by the Company to all holders of the Ordinary Shares (directly or in the form of ADS) entitling them to subscribe for or purchase shares of the Company’s Capital Stock, including Ordinary Shares (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events (“**Trigger Event**”): (i) are deemed to be transferred with such Ordinary Shares (directly or in the form of ADS); (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Ordinary Shares (directly or in the form of ADS), shall be deemed not to have been distributed for purposes of this Section 14.04(c) (and no adjustment to the Conversion Rate under this Section 14.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants

shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 14.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 14.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per Ordinary Share redemption or purchase price received by a holder or holders of Ordinary Shares (directly or in the form of ADS) with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Ordinary Shares (directly or in the form of ADS) as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 14.04(a), Section 14.04(b) and this Section 14.04(c), if any dividend or distribution to which this Section 14.04(c) is applicable also includes one or both of:

(A) a dividend or distribution of Ordinary Shares to which Section 14.04(a) is applicable (the “**Clause A Distribution**”); or

(B) a dividend or distribution of rights, options or warrants to which Section 14.04(b) is applicable (the “**Clause B Distribution**”),

then, in either case, (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 14.04(c) is applicable (the “**Clause C Distribution**”) and any Conversion Rate adjustment required by this Section 14.04(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 14.04(a) and Section 14.04(b) with respect thereto shall then be made, except that, if determined by the Company (I) the “Ex-Dividend Date” of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any Ordinary Shares (directly or in the form of ADS) included in the Clause A Distribution or Clause B Distribution shall be deemed not to be “outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date” within the meaning of Section 14.04(a) or



“outstanding immediately prior to the open of business on such Ex-Dividend Date” within the meaning of Section 14.04(b).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

CR' = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP<sub>0</sub> = the Last Reported Sale Price of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution; and

C = the amount in cash per Ordinary Share the Company distributes to all or substantially all holders of Ordinary Shares (directly or in the form of ADSs) (for the avoidance of doubt, without giving effect to any applicable fees and expenses payable to, or withheld by, the ADS Depositary with respect to such distribution).

Any increase pursuant to this Section 14.04(d) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make or pay such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if “C” (as defined above) is equal to or greater than “SP<sub>0</sub>” (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each \$1,000 principal amount of its Notes, at the same time and upon the same terms as holders of the ADSs, the amount of cash that such Holder would have received if such Holder owned a number of ADSs equal to the Conversion Rate on the Record Date for the ADSs for such cash dividend or distribution.

(e) If the Company or any of its Subsidiaries make a payment in respect of a tender or exchange offer for Ordinary Shares (directly or in the form of ADSs), to the extent that the cash and value of any other consideration included in the payment per Ordinary Share exceeds the average of the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be

made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

- CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;
- CR' = the Conversion Rate in effect immediately after the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;
- AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid or payable for Ordinary Shares or ADSs, as the case may be, purchased or exchanged in such tender or exchange offer;
- OS<sub>0</sub> = the number of Ordinary Shares outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange, or represented by all ADSs accepted for purchase or exchange, as the case may be in such tender or exchange offer);
- OS' = the number of Ordinary Shares outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange, or represented by all ADSs accepted for purchase or exchange, as the case may be in such tender or exchange offer, without duplication); and
- SP' = the average of the Last Reported Sale Prices of the ADSs (*divided by* the number of Ordinary Shares then represented by one ADS) over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

The increase to the Conversion Rate under this Section 14.04(e) shall occur at the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires; *provided* that (x) in respect of any conversion of Notes for which Physical Settlement is applicable, if the relevant Conversion Date occurs during the 10 Trading Days immediately following, and including, the Trading Day next succeeding the expiration date of any tender or exchange offer, references to “10” or “10th” in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the date that such tender or exchange offer expires and such Conversion Date in determining the Conversion Rate and (y) in

respect of any conversion of Notes for which Cash Settlement or Combination Settlement is applicable, for any Trading Day that falls within the relevant Observation Period for such conversion and within the 10 Trading Days immediately following, and including, the Trading Day next succeeding the expiration date of any tender or exchange offer, references to “10” or “10th” in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the expiration date of such tender or exchange offer to, and including, such Trading Day in determining the Conversion Rate as of such Trading Day.

In the event that the Company or one of its Subsidiaries is obligated to purchase Ordinary Shares or ADSs, as the case may be, pursuant to any such tender offer or exchange offer, but the Company or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all or a portion of such purchases are rescinded, then the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender offer or exchange offer had not been made or had been made only in respect of the purchases that have been effected.

(f) Notwithstanding this Section 14.04 or any other provision of this Indenture or the Notes, if: (1) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date as described in this Section 14.04; (2) a Note is to be converted for which Physical Settlement or Combination Settlement applies; (3) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related Record Date for the ADSs; (4) the consideration due upon such conversion (in the case of Physical Settlement) or due with respect to such VWAP Trading Day (in the case of Combination Settlement) includes any whole number of the ADSs based on a Conversion Rate that is adjusted for such dividend or distribution; and (5) such ADSs would be entitled to participate in such dividend or distribution, then, notwithstanding anything to the contrary, (x) in the case of Physical Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date shall not be made for such conversion, and, instead, the ADSs issuable upon such conversion based on such unadjusted Conversion Rate shall be entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date shall be made for such conversion in respect of such VWAP Trading Day, but the ADSs issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate shall not be entitled to participate in such dividend or distribution.

(g) Except as stated herein, the Company shall not adjust the Conversion Rate for the issuance of Ordinary Shares or ADSs or any securities convertible into or exchangeable for Ordinary Shares or ADSs or the right to purchase Ordinary Shares or ADSs or such convertible or exchangeable securities.

(h) In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 14.04, and to the extent permitted by applicable law and subject to the applicable listing standards of the Nasdaq Global Select Market, the Company from time to time may increase the

Conversion Rate by any amount for a period of at least 20 Business Days if the Board of Directors determines that such increase would be in the Company's best interest. In addition, to the extent permitted by applicable law and subject to the applicable listing standards of the Nasdaq Global Select Market, the Company may (but is not required to) increase the Conversion Rate to avoid or diminish any income tax to holders of Ordinary Shares or the ADSs or rights to purchase Ordinary Shares or the ADSs in connection with a dividend or distribution of Ordinary Shares or ADSs (or rights to acquire Ordinary Shares or ADSs) or similar event. Whenever the Conversion Rate is increased pursuant to either of the preceding two sentences, the Company shall deliver to the Holder of each Note a notice of the increase at least 15 days prior to the date the increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it will be in effect.

(i) Notwithstanding anything to the contrary in this Article 14, the Conversion Rate shall not be adjusted:

(i) Upon the issuance of Ordinary Shares (directly or in the form of the ADSs) at a price below the Conversion Price per ADS (*divided by* the number of Ordinary Shares then represented by one ADS, to the extent the price per Ordinary Share is applicable) or otherwise (other than in connection with a transaction described in clauses (a) through (c) of this Section 14.04);

(ii) upon the issuance of any Ordinary Shares or ADSs pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Ordinary Shares or ADSs under any plan;

(iii) upon the issuance of any Ordinary Shares or ADSs or options or rights to purchase those Ordinary Shares or ADSs pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of the Company's Subsidiaries;

(iv) upon the issuance of any Ordinary Shares or ADSs pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (iii) of this subsection and outstanding as of the date the Notes were first issued;

(v) upon the repurchase of any Ordinary Shares or ADSs pursuant to an open-market share repurchase program or other buy-back transaction that is not a tender offer or exchange offer of the nature described under Section 14.04(e), including structured or derivative transactions or pursuant to repurchase program approved by the Board of Directors.

(vi) solely for a change in the par value of the Ordinary Shares; or

(vii) for accrued and unpaid Special Interest, if any.

(j) All calculations and other determinations under this Article 14 shall be made by the Company and shall be made to the nearest one-ten thousandth (1/10,000th) of an ADS.

(k) In no event shall the Conversion Rate be adjusted such that the Conversion Price will be less than the par value per Ordinary Share. The Company shall not be required to make an adjustment in the Conversion Rate unless the adjustment would require a change of at least 1% in the Conversion Rate. However, the Company shall carry forward any adjustment that is less than 1% of the Conversion Rate, take such carried-forward adjustments into account in any subsequent adjustment, and make such carried-forward adjustments, regardless of whether the aggregate adjustment is less than 1%, (i) annually on the anniversary of the first date of original issuance of the Notes, (ii) in the case of any Note to which Physical Settlement applies, upon the Conversion Date, (iii) in the case of any Note to which Cash Settlement or Combination Settlement applies, on each Scheduled Trading Day of the applicable Observation Period, (iv) on the date of a Notice of Tax Redemption and (v) on the Effective Date of any Fundamental Change or Make-Whole Fundamental Change.

(l) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee (and the Conversion Agent if not the Trustee) an Officers' Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall deliver such notice of such adjustment of the Conversion Rate to each Holder. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(m) For purposes of this Section 14.04, the number of Ordinary Shares at any time outstanding shall not include Ordinary Shares held in the treasury of the Company (directly or in the form of ADSs) so long as the Company does not pay any dividend or make any distribution on Ordinary Shares held in the treasury of the Company (directly or in the form of ADSs), but shall include Ordinary Shares issuable in respect of scrip certificates issued in lieu of fractions of Ordinary Shares.

Section 14.05. *Adjustments of Prices.* Whenever any provision of this Indenture requires the Company to calculate the Last Reported Sale Prices, the Daily VWAPs, the Daily Conversion Values or the Daily Settlement Amounts over a span of multiple days (including, without limitation, an Observation Period and the period, if any, for determining the ADS Price for purposes of a Make-Whole Fundamental Change or a Redemption Notice), the Company shall make appropriate adjustments to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, Effective Date or expiration date, as the case may be, of the event occurs, at any time during the period when the Last Reported Sale Prices, the Daily VWAPs, the Daily Conversion Values, the Daily Settlement Amounts or any functions thereof are to be calculated.

Section 14.06. *Ordinary Shares to Be Fully Paid.* The Company shall provide, free from preemptive rights, out of its authorized but unissued Ordinary Shares or Ordinary Shares held in treasury, a sufficient number of Ordinary Shares that corresponds to the number of ADSs due

upon conversion of the Notes from time to time as such Notes are presented for conversion (assuming delivery of the maximum number of Additional ADSs pursuant to Section 14.03 and that at the time of computation of such number of shares, all such Notes would be converted by a single Holder and that Physical Settlement were applicable).

Section 14.07. *Effect of Recapitalizations, Reclassifications and Changes of the Ordinary Shares.*

- (a) In the case of:
- (i) any recapitalization, reclassification or change of the Ordinary Shares (other than changes in par value or changes resulting from a subdivision or combination),
  - (ii) any consolidation, merger or combination involving the Company,
  - (iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and the Company's Subsidiaries substantially as an entirety;
  - (iv) any statutory scheme of arrangement; or
  - (v) any statutory share exchange,

in each case, as a result of which the Ordinary Shares would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "**Merger Event**"), then, at and after the effective time of such Merger Event, the right to convert each \$1,000 principal amount of Notes shall be changed into a right to convert such principal amount of Notes into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of ADSs equal to the Conversion Rate immediately prior to such Merger Event would have owned or been entitled to receive (the "**Reference Property**," with each "**unit of Reference Property**" meaning the kind and amount of Reference Property that a holder of one ADS is entitled to receive) upon such Merger Event and, prior to or at the effective time of such Merger Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture permitted under Section 10.01(j) providing for such change in the right to convert each \$1,000 principal amount of Notes; *provided, however*, that at and after the effective time of the Merger Event (A) the Company shall continue to have the right to determine the form of consideration to be paid or delivered, as the case may be, upon conversion of Notes in accordance with Section 14.02 and (B) (I) any amount payable in cash upon conversion of the Notes in accordance with Section 14.02 shall continue to be payable in cash, (II) any ADSs otherwise deliverable upon conversion of the Notes in accordance with Section 14.02 shall instead be deliverable in the amount and type of Reference Property that a holder of that number of ADSs would have been entitled to receive in such Merger Event and (III) the Daily VWAP shall be calculated based on the value of a unit of Reference Property.

If the Merger Event causes the Ordinary Shares to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of shareholder election), then (i) the Reference Property into which the Notes will be

convertible shall be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of the ADSs, and (ii) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (i) attributable to one ADS. If the holders of the ADSs receive only cash in such Merger Event, then for all conversions for which the relevant Conversion Date occurs after the effective date of such Merger Event (A) the consideration due upon conversion of each \$1,000 principal amount of Notes shall be solely cash in an amount equal to the Conversion Rate in effect on the Conversion Date (as may be increased by any Additional ADSs pursuant to Section 14.03), *multiplied* by the price paid per ADS in such Merger Event and (B) the Company shall satisfy the Conversion Obligation by paying cash to converting Holders on the second Business Day immediately following the relevant Conversion Date. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing of such weighted average as soon as practicable after such determination is made.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Article 14. If, in the case of any Merger Event, the Reference Property includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the successor or purchasing corporation, as the case may be, in such Merger Event, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including the provisions providing for the purchase rights set forth in Article 15.

(b) When the Company executes a supplemental indenture pursuant to subsection (a) of this Section 14.07, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or property or asset that will comprise a unit of Reference Property after any such Merger Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly deliver notice thereof to all Holders. The Company shall cause notice of the execution of such supplemental indenture to be delivered to each Holder within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(c) The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 14.07. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes into cash, ADSs or a combination of cash and ADSs, as applicable, as set forth in Section 14.01 and Section 14.02 prior to the effective date of such Merger Event.

(d) The above provisions of this Section shall similarly apply to successive Merger Events.

Section 14.08. *Certain Covenants.* (a) The Company covenants that all ADSs issued upon conversion of Notes, and Ordinary Shares represented by such ADSs, will be fully paid and

non-assessable by the Company and free from all taxes, liens and charges with respect to the issue thereof.

(b) The Company covenants that, if any ADSs to be provided for the purpose of conversion of Notes hereunder, or any Ordinary Shares represented by such ADSs, require registration with or approval of any governmental authority under any Israeli law before such ADSs may be validly issued upon conversion, the Company will, to the extent then permitted by the rules and interpretations of the Commission, secure such registration or approval, as the case may be.

(c) The Company further covenants that if at any time the ADSs shall be listed on any national securities exchange or automated quotation system the Company will list and keep listed, so long as the ADSs shall be so listed on such exchange or automated quotation system, any ADSs issuable upon conversion of the Notes.

(d) The Company further covenants to use commercially reasonable efforts to take all actions and obtain all approvals and registrations as are necessary or appropriate with respect to the conversion of the Notes into ADSs and the issuance, and deposit into the ADS facility, of the Ordinary Shares represented by such ADSs. The Company also undertakes to maintain at all times while any ADSs are outstanding, for the benefit of the Holders, the effectiveness of a registration statement on Form F-6 relating to the ADSs and an adequate number of ADSs available for issuance thereunder such that such ADSs can be delivered in accordance with the terms of this Indenture, the Notes and the relevant Deposit Agreement upon conversion of the Notes.

(e) For the avoidance of doubt, neither the Trustee nor any of the Agents shall have any responsibility to deliver ADSs to any person or deal with cash payments in relation to conversion of the Notes.

Section 14.09. *Responsibility of Trustee.* The Trustee and any other Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any ADSs, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any ADSs or share certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 14.07 relating either to the kind or amount of ADSs or securities or property



(including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such Section 14.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officers' Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 14.01(b) has occurred that makes the Notes eligible for conversion or no longer eligible therefor until the Company has delivered to the Trustee and the Conversion Agent the notices referred to in Section 14.01(b) with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely, and the Company agrees to deliver such notices to the Trustee and the Conversion Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 14.01(b).

Section 14.10. *Notice to Holders Prior to Certain Actions.* In case of any:

- (a) action by the Company or one of its Subsidiaries that would require an adjustment in the Conversion Rate pursuant to Section 14.04 or Section 14.11;
- (b) Merger Event (other than with respect to any Merger Event pursuant to which the Company is required to provide notice pursuant to Section 14.01(b)(iii), in which case the notice shall be given pursuant to such Section); or
- (c) voluntary or involuntary dissolution, liquidation or winding-up of the Company or any of its Subsidiaries;

then, in each case (unless notice of such event is otherwise required pursuant to another provision of this Indenture), the Company shall cause to be filed with the Trustee and the Conversion Agent (if other than the Trustee) and to be delivered to each Holder, as promptly as possible but in any event at least 20 days prior to the applicable date hereinafter specified, a notice stating (i) the date on which a record is to be taken for the purpose of such action by the Company or one of its Subsidiaries or, if a record is not to be taken, the date as of which the holders of Ordinary Shares or ADSs, as the case may be, of record are to be determined for the purposes of such action by the Company or one of its Subsidiaries, or (ii) the date on which such Merger Event, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Ordinary Shares or ADSs, as the case may be, of record shall be entitled to exchange their Ordinary Shares or ADSs, as the case may be, for securities or other property deliverable upon such Merger Event, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Company or one of its Subsidiaries, Merger Event, dissolution, liquidation or winding-up.

Section 14.11. *Shareholder Rights Plans.* If the Company has a shareholder rights plan in effect, upon conversion of the Notes, each ADS, if any, issued upon such conversion shall be entitled to receive the appropriate number of rights (either in respect of the ADSs or in respect of

the Ordinary Shares underlying such ADSs), if any, and the certificates representing the ADSs issued upon such conversion shall bear such legends, if any, in each case as may be provided by the terms of any such shareholder rights plan, as the same may be amended from time to time. However, if, prior to any conversion of Notes, the rights have separated from the Ordinary Shares underlying the ADSs at such time in accordance with the provisions of the applicable shareholder rights plan, the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) Distributed Property as provided in Section 14.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 14.12. *Exchange in Lieu of Conversion.*

(a) When a Holder surrenders Notes for conversion, the Company may, at its election, direct the Conversion Agent to surrender, on or prior to the Scheduled Trading Day immediately preceding the first Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on or prior to the Business Day immediately following the relevant Conversion Date), such Notes to a financial institution designated by the Company for exchange in lieu of conversion (each, an “**Exchange in Lieu of Conversion**”). In order to accept any Notes surrendered for conversion, the designated financial institution must agree to pay and/or cause to be delivered, as the case may be, in exchange for such Notes, all of the cash, ADSs or a combination thereof due upon conversion, all in accordance with Section 14.02. By the close of business on the Scheduled Trading Day immediately preceding the first Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, by the close of business on the Business Day immediately following the relevant Conversion Date), the Company shall notify the Holder surrendering Notes for conversion that the Company has directed the designated financial institution to make an Exchange in Lieu of Conversion.

(b) If the designated financial institution accepts any such Notes, it will pay and/or cause to be delivered, as the case may be, the cash, ADSs or a combination thereof due upon conversion to the Conversion Agent, and the Conversion Agent will pay and/or cause to be delivered such cash and/or ADSs to such Holder on the second Business Day immediately following the last Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on the second Business Day immediately following the relevant Conversion Date). Any Notes exchanged by the designated financial institution will remain outstanding. If the designated financial institution agrees to accept any Notes for exchange but does not timely pay and/or deliver the related cash, ADSs or a combination thereof, as the case may be, or if such designated financial institution does not accept the Notes for exchange, the Company shall convert the Notes and pay and/or cause to be delivered, as the case may be, the cash, ADSs or a combination thereof due upon conversion on the second Business Day immediately following the last Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on the second Business Day immediately following the relevant Conversion Date) in accordance with Section 14.02.

(c) The Company’s designation of a financial institution to which the Notes may be submitted for exchange does not require the financial institution to accept any Notes (unless the financial institution has separately made an agreement with the Company). The Company may,

but shall not be obligated to, enter into a separate agreement with any designated financial institution that would compensate the Company for any such transaction.

Section 14.13. *Termination of Depositary Receipt Program.* If the Ordinary Shares cease to be represented by ADSs issued under a depositary receipt program sponsored by the Company, each reference herein to the ADSs related to the terms of the Notes shall be deemed to have been replaced by a reference to the number of Ordinary Shares (and other property, if any) represented by the ADSs on the last day on which the ADSs represented the Ordinary Shares and as if such Ordinary Shares and other property had been distributed to holders of the ADSs on that day. In addition, all references to the “Daily VWAP” or the “Last Reported Sale Price” of the ADSs shall be deemed to refer to the “Daily VWAP” or the “Last Reported Sale Price” of the Ordinary Shares, and other appropriate adjustments, including adjustments to the Conversion Rate, shall be made to reflect such change. In making such adjustments, where currency translations between U.S. dollars and any other currency are required, the currency exchange rate in effect on the date of determination will apply.

## ARTICLE 15 REPURCHASE OF NOTES AT OPTION OF HOLDERS

Section 15.01. *[Intentionally Omitted].*

Section 15.02. *Repurchase at Option of Holders Upon a Fundamental Change.* (a) If a Fundamental Change occurs at any time prior to the Maturity Date, each Holder shall have the right, at such Holder’s option, to require the Company to repurchase for cash all of such Holder’s Notes, or any portion of the principal thereof that is equal to \$1,000 or an integral multiple of \$1,000, on the date (the “**Fundamental Change Repurchase Date**”) specified by the Company that is not less than 20 calendar days or more than 35 calendar days following the date of the Fundamental Change Company Notice (subject to extension if required to comply with law) at a repurchase price equal to 100% of the principal amount thereof, *plus* any accrued and unpaid Special Interest thereon to, but excluding, the Fundamental Change Repurchase Date (the “**Fundamental Change Repurchase Price**”), unless the Fundamental Change Repurchase Date falls after a Special Interest Record Date but on or prior to the Special Interest Payment Date to which such Special Interest Record Date relates, in which case the Company shall instead pay the full amount of any accrued and unpaid Special Interest to Holders of record as of such Special Interest Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the principal amount of Notes to be repurchased pursuant to this Article 15.

(b) Repurchases of Notes under this Section 15.02 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed notice (the “**Fundamental Change Repurchase Notice**”) in the form set forth in Attachment 2 to the Form of Note attached hereto as Exhibit A, if the Notes are Physical Notes, or in compliance with the Depositary’s procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the

second Scheduled Trading Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depository, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

(i) in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase;

(ii) the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and

(iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

*provided, however*, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with appropriate Depository procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 15.02 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the second Scheduled Trading Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 15.03.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

(c) On or before the 20th calendar day after the occurrence of the effective date of a Fundamental Change, the Company shall provide to all Holders of Notes and the Trustee and the Paying Agent (in the case of a Paying Agent other than the Trustee) a written notice (the “**Fundamental Change Company Notice**”) of the occurrence of the effective date of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the applicable procedures of the Depository. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the effective date of the Fundamental Change;

- (iii) the last date on which a Holder may exercise the repurchase right pursuant to this Article 15;
- (iv) the Fundamental Change Repurchase Price;
- (v) the Fundamental Change Repurchase Date;
- (vi) the name and address of the Paying Agent and the Conversion Agent, if applicable;
- (vii) if applicable, the Conversion Rate and any adjustments to the Conversion Rate as a result of such Fundamental Change;
- (viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder validly withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Indenture; and
- (ix) the procedures that Holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 15.02.

At the Company's request, the Trustee shall give such notice in the Company's name and at the Company's expense; *provided, however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company.

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the procedures of the Depositary shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

(e) Notwithstanding anything to the contrary in this Indenture, the Company shall be deemed to satisfy its obligations to repurchase Notes upon a Fundamental Change pursuant to this Article 15 if one or more third parties conduct the repurchase offer and repurchase Notes surrendered for repurchase in a manner that would have satisfied the Company's obligations to do the same if conducted directly by the Company.

(f) Notwithstanding anything to the contrary in this Indenture, the Company shall not be required to send a Fundamental Change Company Notice, or offer to repurchase or repurchase any Notes pursuant to this Article 15, in connection with a Fundamental Change occurring pursuant to clause (b)(A) or (b)(B) (or pursuant to clause (a) that also constitutes a Fundamental Change pursuant to clause (b)(A) or (b)(B)) of the definition thereof, if:

(i) such Fundamental Change constitutes a Merger Event for which the resulting Reference Property consists entirely of cash in U.S. dollars;

(ii) immediately after such Fundamental Change, the Notes become convertible (pursuant to the provisions described in Section 14.07 and, if applicable, Section 14.03) into consideration that consists solely of U.S. dollars in an amount per \$1,000 principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per \$1,000 principal amount of Notes (calculated assuming that such Fundamental Change Repurchase Price includes accrued and unpaid Special Interest, if any, to but excluding the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and

(iii) the Company timely sends the notice relating to such Fundamental Change required pursuant to Section 14.01(b)(iii).

Section 15.03. *Withdrawal of Fundamental Change Repurchase Notice.* (a) A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 15.03 at any time prior to the close of business on the second Scheduled Trading Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(i) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which principal amount must be \$1,000 or an integral multiple of \$1,000,

(ii) in the case of Physical Notes, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, and

(iii) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000;

*provided, however,* that if the Notes are Global Notes, the notice must comply with appropriate procedures of the Depositary.

Section 15.04. *Deposit of Fundamental Change Repurchase Price.* (a) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased

at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the second Scheduled Trading Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of (i) the Fundamental Change Repurchase Date (*provided* the Holder has satisfied the conditions in Section 15.02) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 15.02 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; *provided, however*, that payments to the Depository shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 11:00 a.m. New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Fundamental Change Repurchase Date or any applicable extension thereof, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn, (i) such Notes will cease to be outstanding, (ii) Special Interest, if and to the extent that any such accrued and unpaid Special Interest exists as of such date, will cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent) and (iii) all other rights of the Holders of such Notes will terminate (other than the right to receive the Fundamental Change Repurchase Price and, if applicable, accrued and unpaid Special Interest).

(c) Upon surrender of a Note that is to be repurchased in part pursuant to Section 15.02, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the unrepurchased portion of the Note surrendered.

Section 15.05. *Covenant to Comply with Applicable Laws Upon Repurchase of Notes.* In connection with any repurchase offer, the Company will, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act;

(b) file a Schedule TO or any other required schedule under the Exchange Act;

(c) comply with the provisions of the Israeli Companies Law, 5759-1999; and

(d) otherwise comply with all federal and state securities laws in connection with any offer by the Company to repurchase the Notes;

in each case, so as to permit the rights and obligations under this Article 15 to be exercised in the time and in the manner specified in this Article 15. To the extent that the provisions of any applicable securities laws or regulations adopted subsequent to August 24, 2020 conflict with the

provisions of this Indenture relating to the Company's obligations to purchase the Notes upon a Fundamental Change, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under such provisions of this Indenture by virtue of such conflict.

ARTICLE 16  
REDEMPTION FOR CHANGES IN TAX LAW

Section 16.01. *Optional Redemption for Changes in the Tax Laws of the Relevant Taxing Jurisdiction.*

(a) The Company may redeem the Notes, in whole but not in part (except in respect of Holders that elect otherwise as described below), at the Company's option (a "**Tax Redemption**") at the Redemption Price, including, for the avoidance of doubt, any Additional Amounts with respect to such Redemption Price, if, on the next date on which any amount would be payable or delivery owed in respect of the Notes, the Company would be required to pay any Additional Amounts, and the Company cannot avoid any such payment obligation by taking reasonable measures available to the Company (*provided* that listing the Notes on a recognized stock exchange for purposes of Sections 9(15D) and 97(B2) of the Israeli Income Tax Ordinance is, and changing the Company's jurisdiction is not, a reasonable measure for purposes of this Section 16.01(a)) as a result of:

(i) any amendment to, or change in, the laws, tax treaties, or any regulations, protocols or rulings promulgated thereunder of a Relevant Taxing Jurisdiction that is announced and becomes effective, in each case, after August 24, 2020 (or, if the applicable Relevant Taxing Jurisdiction becomes a Relevant Taxing Jurisdiction on a date after August 24, 2020, such later date); or

(ii) any amendment to, or change in, an official interpretation or application regarding such laws, tax treaties, regulations, protocols or rulings, including by virtue of a holding, judgment or order by a court of competent jurisdiction or a change in administrative practice that is announced and becomes effective, in each case, after August 24, 2020 (or, if the Relevant Taxing Jurisdiction becomes a Relevant Taxing Jurisdiction on a date after August 24, 2020, such later date) (any such amendment or change described in clauses (i) or (ii), a "**Change in Tax Law**").

Section 16.02. *Notice of Tax Redemption.*

(a) In case the Company exercises its Tax Redemption right pursuant to Section 16.01, it shall fix a date for Tax Redemption (each, a "**Tax Redemption Date**") and it or, at its written request received by the Trustee not less than 65 Scheduled Trading Days prior to the Tax Redemption Date (or such shorter period of time as may be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall deliver or cause to be delivered a written notice of such Tax Redemption (a "**Notice of Tax Redemption**") not less than 50 nor more than 60 Scheduled Trading Days prior to the Tax Redemption Date to each Holder of Notes (the date such notice is delivered, the "**Tax Redemption Notice Date**"); *provided, however*, that,



if the Company shall give such notice, it shall also give written notice of the Tax Redemption Date to the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent. The Tax Redemption Date must be a Business Day and the Company shall not specify a Tax Redemption Date that falls on or after the 41<sup>st</sup> Scheduled Trading Day immediately preceding the Maturity Date. Simultaneously with providing a Notice of Tax Redemption, the Company shall publish, or cause to be published, a notice containing the information set forth in such Notice of Tax Redemption on the Company's website or disclose the same in a current report that is filed or furnished with the Commission.

(b) Notwithstanding anything to the contrary in this Indenture, the Company will not give any such Notice of Tax Redemption earlier than 90 days prior to the earliest date on which the Company would be obligated to pay Additional Amounts, and, at the time such Notice of Tax Redemption is given, the obligation to pay Additional Amounts must remain in effect.

(c) The Notice of Tax Redemption, if delivered in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Notice of Tax Redemption in the manner herein provided or any defect in the Notice of Tax Redemption to the Holder of any Note designated for Tax Redemption shall not affect the validity of the proceedings for the Tax Redemption of any other Note.

(d) Each Notice of Tax Redemption shall specify:

(i) the Tax Redemption Date;

(ii) the Redemption Price;

(iii) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(iv) that on the Tax Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that the Special Interest thereon, if any, shall cease to accrue on and after the Tax Redemption Date;

(v) that Holders may surrender all or any portion of their Notes for conversion at any time on or after the Tax Redemption Notice Date and prior to the close of business on the second Scheduled Trading Day immediately preceding the Tax Redemption Date or, if the Company fails to pay the Redemption Price, such later date on which the Company pays the Redemption Price;

(vi) the procedures a converting Holder must follow to convert its Notes and the Settlement Method and Specified Dollar Amount, if applicable, applicable to any conversion of Notes occurring at any time on or after the Tax Redemption Notice Date and prior to the close of business on the second Scheduled Trading Day immediately preceding the Tax Redemption Date;

(vii) that Holders have the right to elect not to have their Notes redeemed by delivering to the Trustee written notice to that effect not later than the 15th Business Day prior to the Tax Redemption Date;

(viii) that Holders who wish to elect not to have their Notes redeemed must satisfy the requirements set forth in this Indenture;

(ix) that, on and after the Tax Redemption Date, Holders who elect not to have their Notes redeemed will not receive any Additional Amounts on any payments with respect to such Notes (whether upon conversion, repurchase, maturity or otherwise), and all subsequent payments with respect to the Notes will be subject to any tax required to be withheld or deducted under the laws of the Relevant Taxing Jurisdiction, *provided* that a Holder complying with the requirements for conversion described under Section 14.02 before the close of business on the second Scheduled Trading Day immediately preceding the Tax Redemption Date will be deemed to have validly delivered a notice of its election not to have its Notes redeemed, and the Company, will pay Additional Amounts, if any are due, with respect to such Holder's conversion of its Notes;

(x) the Conversion Rate (including any Additional ADSs added thereto for Holders that convert their at any time from, and including, the Tax Redemption Notice Date until the close of business on the second Scheduled Trading Day immediately preceding the related Tax Redemption Date (or, if the Company fails to pay the Redemption Price, such later date on which the Company pays or duly provides for the Redemption Price)); and

(xi) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes.

A Notice of Tax Redemption shall be irrevocable.

Section 16.03. *Payment of Notes Called for Tax Redemption.* (a) If any Notice of Tax Redemption has been given in respect of the Notes in accordance with Section 16.02, the Notes shall become due and payable on the Tax Redemption Date at the place or places stated in the Notice of Tax Redemption and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Notice of Tax Redemption, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Prior to 11:00 a.m., New York City time, on the Tax Redemption Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 7.05 an amount of cash in immediately available funds, sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Tax Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Tax Redemption Date for such Notes. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 16.04. *Holders' Right to Avoid Tax Redemption.* Notwithstanding anything to the contrary in this Article 16, if the Company has given a Notice of Tax Redemption as

described in Section 16.02, each Holder of Notes will have the right to elect that such Holder's Notes will not be subject to the Tax Redemption. If a Holder elects that its Notes will not be subject to the Tax Redemption, the Company will not be required to pay Additional Amounts with respect to payments made in respect of such Notes following the Tax Redemption Date as a result of such Change in Tax Law in a Relevant Jurisdiction that resulted in the obligation to pay such Additional Amounts (for the avoidance of doubt, excluding any obligation to pay Additional Amounts (if any) that did not result from a Change in Tax Law for which the Company shall continue to pay Additional Amounts), and all subsequent payments in respect of such Notes will be subject to any tax required to be withheld or deducted under the laws of a Relevant Taxing Jurisdiction. The obligation to pay Additional Amounts to any electing Holder for payments made in periods prior to the Tax Redemption Date shall continue to apply, subject to the exceptions set forth under Section 4.10. Subject to the applicable procedures of the Depository in the case of Global Notes, Holders must exercise their option to elect to avoid the Tax Redemption by written notice thereof to the Trustee no later than the 15<sup>th</sup> Business Day prior to the Tax Redemption Date; *provided* that a Holder complying with the requirements for conversion pursuant to Section 14.02 before the close of business on the second Scheduled Trading Day immediately preceding the Tax Redemption Date shall be deemed to have validly delivered a notice of its election not to have its Notes redeemed in the Tax Redemption, and the Company will pay Additional Amounts, if any are due, with respect to such Holder's conversion of its Notes. If no election is made or deemed to have been made, the Holder will have its Notes redeemed without any further action.

Section 16.05. *Restrictions on Tax Redemption.* The Company may not redeem any Notes on any date if the principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Tax Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

## ARTICLE 17 OPTIONAL REDEMPTION

Section 17.01. *Optional Redemption On or After September 21, 2023.* Except as set forth in Article 16, the Notes shall not be redeemable by the Company prior to September 21, 2023, and no sinking fund is provided for the Notes. On or after September 21, 2023, the Company may redeem (an "**Optional Redemption**") for cash all or any portion of the Notes (subject to the Partial Redemption Limitation) at the Redemption Price, at the Company's option, if the Last Reported Sale Price of the ADSs has been at least 130% of the Conversion Price then in effect for at least 20 Trading Days (whether or not consecutive) during any 30 consecutive Trading Day period (including the last Trading Day of such period) ending on, and including, the Trading Day immediately preceding the date on which the Company provides the Notice of Optional Redemption (an "**Optional Redemption Notice Date**") in accordance with Section 17.02.

Section 17.02. *Notice of Optional Redemption; Selection of Notes.* (a) In case the Company exercises its Optional Redemption right pursuant to Section 17.01, it shall fix a date for Optional Redemption (each, an "**Optional Redemption Date**") and it or, at its written

request received by the Trustee not less than 65 Scheduled Trading Days prior to the Optional Redemption Date (or such shorter period of time as may be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall deliver or cause to be delivered a written notice of such Optional Redemption (a “**Notice of Optional Redemption**”) not less than 50 nor more than 60 Scheduled Trading Days prior to the Optional Redemption Date to each Holder of Notes so to be redeemed as a whole or in part; *provided, however*, that, if the Company shall give such notice, it shall also give written notice of the Optional Redemption Date to the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent. The Optional Redemption Date must be a Business Day, and the Company shall not specify an Optional Redemption Date that falls on or after the 41st Scheduled Trading Day immediately preceding the Maturity Date. Simultaneously with providing a Notice of Optional Redemption, the Company shall publish, or cause to be published, a notice containing the information set forth in such Notice of Optional Redemption on the Company’s website or disclose the same in a press release or report that is filed or furnished with the Commission.

(b) The Notice of Optional Redemption, if delivered in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Notice of Optional Redemption by mail or any defect in the Notice of Optional Redemption to the Holder of any Note designated for Optional Redemption as a whole or in part shall not affect the validity of the proceedings for the Optional Redemption of any other Note.

(c) Each Notice of Optional Redemption shall specify:

(i) the Optional Redemption Date;

(ii) the Redemption Price;

(iii) that on the Optional Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that any Special Interest thereon, if any, shall cease to accrue on and after the Optional Redemption Date;

(iv) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their Notes for conversion at any time prior to the close of business on the second Scheduled Trading Day immediately preceding the Optional Redemption Date;

(vi) the procedures a converting Holder must follow to convert its Notes and the Settlement Method and Specified Dollar Amount, if applicable;

(vii) the Conversion Rate and, if applicable, the number of Additional ADSs added to the Conversion Rate in accordance with Section 14.03;

(viii) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes;  
and

(ix) in case any Note is to be redeemed in part only, the portion of the principal amount thereof to be redeemed and on and after the Optional Redemption Date, upon surrender of such Note, a new Note in principal amount equal to the unredeemed portion thereof shall be issued.

A Notice of Optional Redemption shall be irrevocable.

(d) If the Company elects to redeem fewer than all of the outstanding Notes pursuant to Section 17.01, at least \$150,000,000 aggregate principal amount of Notes must be outstanding and not subject to Optional Redemption pursuant to the relevant Notice of Optional Redemption as of the relevant Optional Redemption Notice Date (such requirement, the “**Partial Redemption Limitation**”). If the Company decides to redeem fewer than all of the outstanding Notes, the Notes to be redeemed will be selected according to the Depository’s applicable procedures, in the case of Notes represented by a Global Note, or, in the case of Notes in certificated form, the Trustee shall select, in such manner as it shall deem appropriate and fair, Notes to be redeemed in whole or in part. If any Note selected for partial Optional Redemption is submitted for conversion in part after such selection, the portion of the Note submitted for conversion shall be deemed (so far as may be possible) to be the portion selected for Optional Redemption. If the Company elects to redeem fewer than all of the outstanding Notes, Holders of the Notes not called for Optional Redemption will not be entitled to convert such Notes (at an increased Conversion Rate for such Notes or otherwise) on account of such Optional Redemption, except in the limited circumstances set forth under Section 14.01(b)(v).

Section 17.03. *Payment of Notes Called for Optional Redemption.* (a) If any Notice of Optional Redemption has been given in respect of the Notes in accordance with Section 17.02, the Notes shall become due and payable on the Optional Redemption Date at the place or places stated in the Notice of Optional Redemption and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Notice of Optional Redemption, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Prior to 11:00 a.m., New York City time, on the Optional Redemption Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 7.05 an amount of cash in immediately available funds, sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Optional Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Optional Redemption Date for such Notes. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 17.04. *Restrictions on Optional Redemption.* The Company may not redeem any Notes on any date if the principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Optional Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

ARTICLE 18  
MISCELLANEOUS PROVISIONS

Section 18.01. *Provisions Binding on Company's Successors.* All the covenants, stipulations, promises and agreements of the Company contained in this Indenture shall bind its successors and assigns whether so expressed or not.

Section 18.02. *Official Acts by Successor Corporation.* Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of the Company.

Section 18.03. *Addresses for Notices, Etc.* Any notice or demand that by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders on the Company shall be deemed to have been sufficiently given or made, for all purposes if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is filed by the Company with the Trustee) to NICE Ltd., 13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel, Attention: Vice President, General Counsel and Secretary. Any notice, direction, request or demand hereunder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed to the Corporate Trust Office or sent electronically in PDF format.

The Trustee, by notice to the Company, may designate additional or different addresses for subsequent notices or communications. The Trustee, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication delivered or to be delivered to a Holder of Physical Notes shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed. Any notice or communication delivered or to be delivered to a Holder of Global Notes shall be delivered in accordance with the applicable procedures of the Depository and shall be sufficiently given to it if so delivered within the time prescribed.

Failure to mail or deliver a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed or delivered, as the case may be, in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 18.04. *Governing Law; Jurisdiction.* THIS INDENTURE AND EACH NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO

THIS INDENTURE AND EACH NOTE, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICTS OF LAWS PROVISIONS THEREOF).

The Company irrevocably consents and agrees, for the benefit of the Holders from time to time of the Notes and the Trustee, that any legal action, suit or proceeding against it with respect to obligations, liabilities or any other matter arising out of or in connection with this Indenture or the Notes may be brought in the courts of the State of New York or the courts of the United States located in the Borough of Manhattan, New York City, New York and, until amounts due and to become due in respect of the Notes have been paid, hereby irrevocably consents and submits to the exclusive jurisdiction of each such court (except for proceedings instituted in regard to the enforcement of a judgment of any such court, as to which such jurisdiction is non-exclusive) *in personam*, generally and unconditionally with respect to any action, suit or proceeding for itself in respect of its properties, assets and revenues.

The Company irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Indenture brought in the courts of the State of New York or the courts of the United States located in the Borough of Manhattan, New York City, New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 18.05. *Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee.* Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee an Officers' Certificate and an Opinion of Counsel stating that such action is permitted by the terms of this Indenture; *provided* that no Opinion of Counsel shall be required to be delivered in connection with a request by the Company that the Trustee deliver a notice to Holders under the Indenture, where the Trustee receives an Officers' Certificate with respect to such notice. With respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

Each Officers' Certificate and Opinion of Counsel provided for, by or on behalf of the Company in this Indenture and delivered to the Trustee with respect to compliance with this Indenture (other than the Officers' Certificates provided for in Section 4.08) shall include (a) a statement that the person signing such certificate is familiar with the requested action and this Indenture; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statement contained in such certificate is based; (c) a statement that, in the judgment of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed judgment as to whether or not such action is permitted by this Indenture; and (d) a statement as to whether or not, in the judgment of such person, such action is permitted by this Indenture.

Section 18.06. *Legal Holidays.* In any case where any Special Interest Payment Date, the Maturity Date, any Redemption Date or any Fundamental Change Repurchase Date is not a

Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no Special Interest, if and to the extent any Special Interest is otherwise payable on such date, shall accrue in respect of the delay.

Section 18.07. *No Security Interest Created.* Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 18.08. *Benefits of Indenture.* Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the Holders, the parties hereto, any Paying Agent, any Conversion Agent, any authenticating agent, any Note Registrar and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 18.09. *Table of Contents, Headings, Etc.* The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 18.10. *Authenticating Agent.* The Trustee may appoint an authenticating agent that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.05, Section 2.06, Section 2.07, Section 10.04 and Section 15.04 as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the authenticating agent shall be deemed to be authentication and delivery of such Notes “by the Trustee” and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee’s certificate of authentication. Such authenticating agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 7.08.

Any corporation or other entity into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation or other entity succeeding to the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section 18.10, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation or other entity.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to



the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section, the Trustee may appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall deliver notice of such appointment to all Holders.

The Company agrees to pay to the authenticating agent from time to time reasonable compensation for its services although the Company may terminate the authenticating agent, if it determines such agent's fees to be unreasonable.

The provisions of Section 7.02, Section 7.03, Section 7.04, Section 8.03 and this Section 18.10 shall be applicable to any authenticating agent.

If an authenticating agent is appointed pursuant to this Section 18.10, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

\_\_\_\_\_,  
as Authenticating Agent, certifies that this is one of the Notes described  
in the within-named Indenture.

By: \_\_\_\_\_  
Authorized Signatory

Section 18.11. *Execution in Counterparts and Electronic Execution.* This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. All notices, approvals, consents, requests and any communications hereunder must be in writing (provided that any communication sent to Trustee hereunder must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to Trustee by the authorized representative), in English. The Company agrees to assume all risks arising out of the use of using digital signatures and electronic methods to submit communications to Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 18.12. *Severability.* In the event any provision of this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

Section 18.13. *Waiver of Jury Trial.* EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL

PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 18.14. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, pandemics, epidemics, quarantine restrictions, recognized public emergencies, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 18.15. *Calculations.* Except as otherwise provided herein, the Company shall be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the ADS Price, the Last Reported Sale Prices of the ADSs, the Daily VWAPs, the Daily Conversion Values, the Daily Settlement Amounts, any accrued Special Interest payable on the Notes and the Conversion Rate of the Notes. The Company shall make all these calculations in good faith and, absent manifest error, the Company's calculations shall be final and binding on Holders of Notes. The Company shall provide a schedule of its calculations to each of the Trustee and the Conversion Agent (if other than the Trustee), and each of the Trustee and Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee will forward the Company's calculations to any Holder of Notes upon the written request of that Holder at the sole cost and expense of the Company.

Section 18.16. *USA PATRIOT Act.* The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

Section 18.17. *Agent for Service of Process.* The Company irrevocably appoint Nice Systems Inc., as its agent to receive service of process or other legal summons for purposes of any legal suit, action or proceeding arising out of or based upon this Indenture that may be instituted in any state or federal court in the City and County of New York.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NICE LTD.

By  DocuSigned by:  
6AD7B3F218D04F8...  
Name: Barak Eilam  
Title: Chief Executive Officer

By  DocuSigned by:  
C0E1B8F8C9A149A...  
Name: Beth Gaspich  
Title: Chief Financial Officer

*[Signature Page to Indenture]*

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

U.S. BANK NATIONAL  
ASSOCIATION, as Trustee

By: Wally Jones  
Name: Wally Jones  
Title: Vice President

**EXHIBIT A**

[FORM OF FACE OF NOTE]

[INCLUDE FOLLOWING LEGEND IF A GLOBAL NOTE]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

[INCLUDE FOLLOWING LEGEND IF A RESTRICTED SECURITY]

[THIS SECURITY, THE AMERICAN DEPOSITARY SHARES, IF ANY, DELIVERABLE UPON CONVERSION OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED THEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), ARE “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR THEREOF OR OF A BENEFICIAL INTEREST HEREIN OR THEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT AND THAT IT AND ANY SUCH ACCOUNT IS NOT, AND HAS NOT BEEN FOR THE IMMEDIATELY PRECEDING THREE MONTHS, AN AFFILIATE OF NICE LTD. (THE “COMPANY”), AND

(2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES DELIVERABLE UPON CONVERSION OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED THEREBY, OR ANY BENEFICIAL INTEREST HEREIN OR THEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY

RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OF THE COMPANY THAT COVERS THE RESALE OF THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES OF THE COMPANY DELIVERABLE UPON CONVERSION OF THIS SECURITY AND/OR THE ORDINARY SHARES REPRESENTED THEREBY, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT THAT IS NOT AN AFFILIATE OF THE COMPANY, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY, THE ADS DEPOSITARY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.]

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY AND NO PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE IMMEDIATELY PRECEDING THREE MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR OWN THIS SECURITY, ANY AMERICAN DEPOSITARY SHARES DELIVERABLE UPON CONVERSION HEREOF AND THE ORDINARY SHARES REPRESENTED THEREBY, OR A BENEFICIAL INTEREST HEREIN OR THEREIN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE ORDINARY SHARES MAY NOT BE DEPOSITED INTO ANY UNRESTRICTED DEPOSITARY RECEIPT FACILITY IN RESPECT OF THE ORDINARY SHARES ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK, UNLESS AND UNTIL SUCH TIME AS THE ORDINARY SHARES ARE NO LONGER RESTRICTED SECURITIES UNDER THE SECURITIES ACT OF 1933. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OF 1933 FOR RESALE OF THE ORDINARY SHARES OR THE AMERICAN DEPOSITARY SHARES.

NICE LTD.

0% Convertible Senior Note due 2025

No. [\_\_\_\_\_]

[Initially]<sup>1</sup> \$[\_\_\_\_\_]

CUSIP No. [\_\_\_\_\_]

NICE Ltd., a corporation duly organized and validly existing under the laws of the Israel (the “**Company**,” which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.]<sup>2</sup> [\_\_\_\_\_]<sup>3</sup>, or registered assigns, the principal sum [as set forth in the “Schedule of Exchanges of Notes” attached hereto]<sup>4</sup> [of \$[\_\_\_\_\_]]<sup>5</sup>, which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed \$400,000,000 (as increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the Initial Purchasers pursuant to the exercise of their option to purchase additional Notes as set forth in the Purchase Agreement) in the aggregate at any time, in accordance with the rules and procedures of the Depository, on September 15, 2025, and any Special Interest thereon as set forth below.

This Note shall bear no regular cash interest, and the principal amount of this Note shall not accrete. Any interest on this Note shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month. Special Interest, if any, is payable semi-annually in arrears on each March 15 and September 15, commencing on March 15, 2021 (if Special Interest is then payable), to Holders of record at the close of business on the preceding March 1 and September 1 (whether or not such day is a Business Day), respectively. Special Interest will be payable as set forth in Section 4.06(d), Section 4.06(e) and 0 of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Special Interest if, in such context, Special Interest is, was or would be payable pursuant to any of such Section 4.06(d), Section 4.06(e) or 0, or any interest on any Defaulted Amounts payable as set forth in Section 2.03(c) in the within-mentioned Indenture.

Any Defaulted Amounts shall not accrue interest unless Special Interest was payable on the required payment date, in which case such payments shall accrue interest per annum at the then-applicable Special Interest rate, subject to the enforceability thereof under applicable law, from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.03(c) of the Indenture.

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<sup>1</sup> Include if a global note.

<sup>2</sup> Include if a global note.

<sup>3</sup> Include if a physical note.

<sup>4</sup> Include if a global note.

<sup>5</sup> Include if a physical note.

The Company shall pay the principal of and Special Interest on this Note, if and so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and the Corporate Trust Office, as defined in the Indenture, as the office or agency in the continental United States where Notes may be presented for payment or for registration of transfer and exchange.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash, ADSs or a combination of cash and ADSs, as applicable, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

**This Note, and any claim, controversy or dispute arising under or related to this Note, shall be construed in accordance with and governed by the laws of the State of New York (without regard to the conflicts of laws provisions thereof).**

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

*[Remainder of page intentionally left blank]*



IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

NICE LTD.

By: \_\_\_\_\_  
Name:  
Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee, certifies that this is one of the Notes described  
in the within-named Indenture.

By: \_\_\_\_\_  
Authorized Signatory

[FORM OF REVERSE OF NOTE]

NICE LTD.

0% Convertible Senior Note due 2025

This Note is one of a duly authorized issue of Notes of the Company, designated as its 0% Convertible Senior Notes due 2025 (the “**Notes**”), limited to the aggregate principal amount of \$400,000,000 (as increased by an amount equal to the aggregate principal amount of any additional Notes purchased by the Initial Purchasers pursuant to the exercise of their option to purchase additional Notes as set forth in the Purchase Agreement) all issued or to be issued under and pursuant to an Indenture dated as of August 27, 2020 (the “**Indenture**”), between the Company and U.S. Bank National Association (the “**Trustee**”), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

In case certain Events of Default shall have occurred and be continuing, the principal of, and any Special Interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Redemption Price on the Redemption Date, the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

Subject to the terms and conditions of the Indenture, Additional Amounts will be paid for withholdings or deductions imposed by a Relevant Tax Jurisdiction in connection with any payments and deliveries made by the Company under or with respect to the Notes, including, but not limited to, payments of principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price), payments of Special Interest, if any, and payments of cash and/or deliveries of ADSs (together with payments of cash in lieu of a Fractional ADS) upon conversion, to ensure that the net amount received after such withholding or deduction (and after deducting any taxes on the Additional Amounts) will equal the amount that would have been received had no such withholding or deduction been required.

The Indenture contains provisions permitting the Company and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal

amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

Each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) any accrued and unpaid Special Interest, if any, on, and (z) the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money or ADSs, as the case may be, herein prescribed.

The Notes are issuable in registered form without coupons in denominations of \$1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer or similar tax that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange.

Under certain circumstances specified in the Indenture, the Notes will be subject to Redemption by the Company at the Redemption Price. No sinking fund is provided for the Notes.

Upon the occurrence of a Fundamental Change, the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of \$1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is \$1,000 or an integral multiple thereof, into cash, ADSs or a combination of cash and ADSs, as applicable, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

## ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

**SCHEDULE OF EXCHANGES OF NOTES**

**NICE LTD.**

**0% Convertible Senior Notes due 2025**

The initial principal amount of this Global Note is \_\_\_\_\_ DOLLARS (\$[\_\_\_\_\_]).  
 The following increases or decreases in this Global Note have been made:

<u>Date of exchange</u>	<u>Amount of decrease in principal amount of this Global Note</u>	<u>Amount of increase in principal amount of this Global Note</u>	<u>Principal amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized signatory of Trustee or Note Registrar</u>
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____

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<sup>6</sup> Include if a global note.

**ATTACHMENT 1**

[FORM OF NOTICE OF CONVERSION]

To: NICE LTD.  
13 Zarchin Street, P.O. Box 690  
Ra'anana 4310602, Israel  
Attention: Vice President, General Counsel and Secretary

U.S. BANK NATIONAL ASSOCIATION, as Conversion Agent  
333 Commerce Street, Suite 800  
Nashville, TN 37201  
615-251-0733

JPMORGAN CHASE BANK, N.A., as ADS Depository  
[New York Plaza, Floor 12,  
New York, New York 10004,  
Attention: Depository Receipts Group]

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, into cash, ADSs or a combination of cash and ADSs, as applicable, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any ADSs issuable and deliverable upon such conversion, together with any cash for any Fractional ADS, and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any ADSs or any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 14.02(d) and Section 14.02(e) of the Indenture. Any amount required to be paid to the undersigned on account of Special Interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In connection with the conversion of this Note, or the portion hereof below designated, the undersigned acknowledges, represents to and agrees with the Company that the undersigned is not the Company or an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company, has not been an "affiliate" (as defined in Rule 144 under the Securities Act) during the three months immediately preceding the date hereof and if the undersigned is acting on behalf of another person, such person is not the Company and has confirmed that it is not an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company and that it is not acting on behalf of the Company or an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company.

[The undersigned further certifies:

1. The undersigned acknowledges (or if the undersigned is acting for the account of another person, such person has confirmed that it acknowledges) that by acquiring the restricted ADSs upon conversion of this Note, it will become a party to and be bound by the provisions of the Restricted Issuance Agreement and that the Restricted Securities transferred upon conversion of this Note (or securities represented thereby) have not been and will not be registered under the Securities Act, or with any securities regulatory authority in any state or other jurisdiction of the United States.

2. The undersigned further certifies that either:

(a) The undersigned is a broker-dealer acting for the account of its customer and its customer has confirmed to the undersigned that it is a qualified institutional buyer and either (i) at the time of issuance of the ADSs referred to above, it will be the beneficial owner of thereof, or (ii) it is acting for the account of a qualified institutional buyer that, at the time of issuance, will be the beneficial owner of the ADSs referred to above.

OR

(b) The undersigned is a qualified institutional buyer (as defined in Rule 144A under the Securities Act) and at the time of issuance of the ADSs referred to above, the undersigned (or one or more qualified institutional buyers for whose account the undersigned is acting) will be the beneficial owner thereof.]<sup>7</sup>

[3.] The undersigned acknowledges that the undersigned (and any such other account) may not continue to hold or retain any interest in ADSs if the undersigned (or such other account) becomes an “affiliate” (as defined in Rule 144 under the Securities Act) of the Company.

[4. The undersigned agrees (and if the undersigned is acting for the account of another person, that person has confirmed that it agrees) that, prior to the Resale Restriction Termination Date, the undersigned (and such other account) will not offer, sell, pledge or otherwise transfer the Restricted Security (or securities represented by such Restricted Security) except in accordance with the restrictions set forth in that legend and any applicable securities laws of the United States and any state thereof.]<sup>8</sup>

The undersigned hereby instructs the ADS Depository to register the ADSs in the name of:

1. Name of Beneficial Owner to receive ADSs (English): \_\_\_\_\_
2. Address of Beneficial Owner to receive ADSs (English): \_\_\_\_\_
3. Name of Registered Holder of the Deposited Shares: \_\_\_\_\_
4. Number of Deposited Shares: \_\_\_\_\_
5. Number of ADSs to be issued: \_\_\_\_\_
6. Beneficial Owner’s Tax ID Number: \_\_\_\_\_
7. Contact Name and Tel No/email address: \_\_\_\_\_

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<sup>7</sup> Include if a Restricted Security.

<sup>8</sup> Include if a Restricted Security.

[The undersigned instructs the ADS Depository to deliver the ADRs representing the ADSs to the following account:

ADS Receiving Broker ( \* are mandatory fields):

- a) DTC Broker Name\*: \_\_\_\_\_
- b) DTC Broker's Participant Account with DTC \*: \_\_\_\_\_
- c) DTC Broker Contact Name: \_\_\_\_\_
- d) DTC Broker Contact Tel No/email: \_\_\_\_\_
- e) Beneficial Owner's Account # with DTC Broker\*: \_\_\_\_\_

OR

- f) Local Broker Name (have account with DTC Broker)\*: \_\_\_\_\_
- Local Broker Sub-Account # with DTC Broker\*: \_\_\_\_\_
- Local Broker Contact Name: \_\_\_\_\_
- Local Broker Contact Tel No/email: \_\_\_\_\_

ADS Delivering Party:

Name: JPMorgan Chase Bank, N.A.  
DTC Account: #[ ● ]<sup>9</sup>

**For any ADS settlement inquiries, please contact JPMorgan Chase Bank, N.A. Broker Desk:**

Tel: [ ● ]  
Email: [ ● ]

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature(s)

<sup>9</sup> Include bracketed language in the conversion Notice if the Note being converted is not a Restricted Security.



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Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if ADSs are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of ADSs if to be issued, and Notes if to be delivered, other than to and in the name of the registered holder:

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(Name)

---

(Street Address)

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(City, State and Zip Code)  
Please print name and address

Principal amount to be converted (if less than all):  
\$\_\_\_\_\_,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

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Social Security or Other Taxpayer  
Identification Number

**ATTACHMENT 2**

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

To: NICE LTD.  
U.S. BANK NATIONAL ASSOCIATION

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from NICE Ltd. (the “**Company**”) as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 15.02 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is \$1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Special Interest Record Date and on or prior to the corresponding Special Interest Payment Date, accrued and unpaid Special Interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature(s)

\_\_\_\_\_  
Social Security or Other Taxpayer  
Identification Number

Principal amount to be repaid (if less than all):  
\$\_\_\_\_\_,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

**ATTACHMENT 3**

[FORM OF ASSIGNMENT AND TRANSFER]

For value received \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

- To NICE Ltd. or a subsidiary thereof; or
- Pursuant to an effective registration statement of NICE Ltd. that covers the resale of the Note, any ADSs deliverable upon conversion of the Note and/or the ordinary shares represented thereby
- To a qualified institutional buyer in compliance with Rule 144A under the Securities Act of 1933, as amended; or
- Pursuant to an exemption from registration provide by rule 144 under the Securities Act of 1933, as amended.

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature(s)

\_\_\_\_\_  
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

**Significant Subsidiaries**

The following is a list of our significant subsidiaries and other subsidiaries, including the name and country of incorporation or residence. Each of our subsidiaries listed below is wholly-owned.

<b>Name of Subsidiary</b>	<b>Country of Incorporation or Residence</b>
Nice Systems Australia PTY Ltd.	Australia
NICE Systems Technologies Brasil LTDA	Brazil
NICE Systems Canada Ltd.	Canada
Nice Systems China Ltd.	China
Nice Systems S.A.R.L.	France
NICE Systems GmbH	Germany
NICE APAC Ltd.	Hong Kong
NICE Systems Kft	Hungary
Nice Interactive Solutions India Private Ltd.	India
Nice Technologies Ltd.	Ireland
Actimize Ltd.	Israel
Nice Japan Ltd.	Japan
NICE Technologies Mexico S.R.L.	Mexico
NICE Netherlands B.V.	Netherlands
Nice Systems (Singapore) Pte. Ltd.	Singapore
Nice Switzerland AG	Switzerland
Actimize UK Limited	United Kingdom
NICE Systems Technologies UK Limited	United Kingdom
NICE Systems UK Ltd.	United Kingdom
Brand Embassy Ltd.	United Kingdom
Actimize Inc.	United States
Alacra LLC	United States
Guardian Analytics Inc.	United States
NICE Systems Inc.	United States
Nice Systems Latin America, Inc.	United States
Nice Systems Technologies Inc.	United States
Mattersight Corporation	United States
Nexidia Inc.	United States
inContact Inc.	United States
inContact Bolivia S.R.L.	Bolivia
Nice inContact Philippines Inc.	Philippines

Certification of Principal Executive Officer pursuant to 17 CFR 240.13a-14(a),  
as adopted pursuant to §302 of the Sarbanes-Oxley Act

I, Barak Eilam, certify that:

1. I have reviewed this annual report on Form 20-F of NICE Ltd.;
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 company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d – 15(f)) for the company 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 company, 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 company'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 company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company'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 company'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 company's internal control over financial reporting.

Date: March 23, 2021

By: /s/ Barak Eilam  
Barak Eilam  
Chief Executive Officer

Certification of Principal Financial Officer pursuant to 17 CFR 240.13a-14(a),  
as adopted pursuant to §302 of the Sarbanes-Oxley Act

I, Beth Gaspich, certify that:

1. I have reviewed this annual report on Form 20-F of NICE Ltd.;
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 company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d – 15(f)) for the company 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 company, 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 company'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 company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company'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 company'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 company's internal control over financial reporting.

Date: March 23, 2021

By: /s/ Beth Gaspich  
Beth Gaspich  
Chief Financial Officer

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

In connection with the Annual Report on Form 20-F of NICE Ltd. (the "Company") for the year ended December 31, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Barak Eilam, Chief Executive Officer of the Company, certifies, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to sec. 906 of the Sarbanes-Oxley Act of 2002, that:

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

March 23, 2021

By: /s/ Barak Eilam

Barak Eilam  
Chief Executive Officer



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

In connection with the Annual Report on Form 20-F of NICE Ltd. (the "Company") for the year ended December 31, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Beth Gaspich, Chief Financial Officer of the Company, certifies, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to sec. 906 of the Sarbanes-Oxley Act of 2002, that:

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

March 23, 2021

By: /s/ Beth Gaspich  
Beth Gaspich  
Chief Financial Officer

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the Registration Statements on Form S-8 (Registration Nos. 333-166364, 333-168100, 333-171165, 333-162795, 333-162110, 333-06784, 333-08146, 333-11842, 333-09350, 333-11154, 333-111112, 333-111113, 333-134355, 333-144589, 333-145981, 333-153230, 333-177510, 333-179408, 333-181375, 333-191176, 333-199904, 333-210341, 333-210343, 333-210344, 333-214584, 333-210341, 333-210343, 333-210344, 333-214584, 333-226930, 333-228911 and 333-249186) of our reports dated March 23, 2021, with respect to the consolidated financial statements of NICE Ltd. and its subsidiaries and the effectiveness of internal control over financial reporting of NICE Ltd. included in this Annual Report on Form 20-F for the year ended December 31, 2020.

Tel Aviv, Israel  
March 23, 2021

/s/ KOST, FORER, GABBAY & KASIERER  
KOST, FORER, GABBAY & KASIERER  
A Member of EY Global