

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

[Mark One]

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

For the quarterly period ended September 30, 2018

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 0-23999

**MANHATTAN ASSOCIATES, INC.**

(Exact Name of Registrant as Specified in Its Charter)

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

**2300 Windy Ridge Parkway, Tenth Floor**  
**Atlanta, Georgia**  
(Address of Principal Executive Offices)

**58-2373424**  
(I.R.S. Employer  
Identification No.)

**30339**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code: (770) 955-7070**

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 Regulations 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, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

|                         |                                     |                           |                          |
|-------------------------|-------------------------------------|---------------------------|--------------------------|
| Large accelerated filer | <input checked="" type="checkbox"/> | Accelerated filer         | <input type="checkbox"/> |
| Non-accelerated filer   | <input type="checkbox"/>            | Smaller reporting company | <input type="checkbox"/> |
| Emerging Growth Company | <input type="checkbox"/>            |                           |                          |

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

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

The number of shares of the Registrant's class of capital stock outstanding as of October 22, 2018, the latest practicable date, is as follows: 65,378,469 shares of common stock, \$0.01 par value per share.

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**PART I**  
**FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES**  
**Condensed Consolidated Balance Sheets**  
**(in thousands, except share and per share data)**

|  | <u>September 30, 2018</u> | <u>December 31, 2017</u> |
|--|---------------------------|--------------------------|
|  | <b>(unaudited)</b>        |                          |
| <b>ASSETS</b>  |                           |                          |
| Current assets:  |                           |                          |
| Cash and cash equivalents  | \$ 89,749                 | \$ 125,522               |
| Short-term investments   | 4,148                     | -                        |
| Accounts receivable, net of allowance of \$2,792 and \$2,692 at September 30, 2018 and December 31, 2017, respectively   | 92,966                    | 92,231                   |
| Prepaid expenses and other current assets  | 16,292                    | 10,320                   |
| Total current assets   | <u>203,155</u>            | <u>228,073</u>           |
| Property and equipment, net  | 14,501                    | 15,493                   |
| Goodwill, net  | 62,243                    | 62,248                   |
| Deferred income taxes  | 1,424                     | 1,877                    |
| Other assets   | 9,685                     | 7,304                    |
| Total assets   | <u>\$ 291,008</u>         | <u>\$ 314,995</u>        |
| <b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>  |                           |                          |
| Current liabilities:   |                           |                          |
| Accounts payable   | \$ 14,273                 | \$ 14,028                |
| Accrued compensation and benefits  | 26,711                    | 15,826                   |
| Accrued and other liabilities  | 11,247                    | 12,105                   |
| Deferred revenue   | 83,020                    | 75,068                   |
| Income taxes payable   | 1,355                     | 7,228                    |
| Total current liabilities  | <u>136,606</u>            | <u>124,255</u>           |
| Other non-current liabilities  | 14,724                    | 15,784                   |
| Shareholders' equity:  |                           |                          |
| Preferred stock, no par value; 20,000,000 shares authorized, no shares issued or outstanding in 2018 and 2017  | -                         | -                        |
| Common stock, \$0.01 par value; 200,000,000 shares authorized; 65,378,469 and 67,776,138 shares issued and outstanding at September 30, 2018 and December 31, 2017, respectively | 654                       | 678                      |
| Retained earnings  | 156,912                   | 186,117                  |
| Accumulated other comprehensive loss   | (17,888)                  | (11,839)                 |
| Total shareholders' equity   | <u>139,678</u>            | <u>174,956</u>           |
| Total liabilities and shareholders' equity   | <u>\$ 291,008</u>         | <u>\$ 314,995</u>        |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES**  
**Condensed Consolidated Statements of Income**  
(in thousands, except per share amounts)

|   | <u>Three Months Ended September 30,</u> |                  | <u>Nine Months Ended September 30,</u> |                  |
|---|---|------------------|--|------------------|
|   | <u>2018</u>                             | <u>2017</u>      | <u>2018</u>                            | <u>2017</u>      |
|   | (unaudited)                             | (unaudited)      | (unaudited)                            | (unaudited)      |
| <b>Revenue:</b>                                       |   |                  |  |                  |
| Software license                                      | \$ 11,526                               | \$ 16,260        | \$ 32,054                              | \$ 57,601        |
| Cloud subscriptions                                   | 6,455                                   | 2,534            | 16,301                                 | 6,408            |
| Maintenance   | 37,177                                  | 36,338           | 110,567                                | 105,673          |
| Services  | 84,136                                  | 84,211           | 245,160                                | 249,319          |
| Hardware  | 3,057                                   | 13,540           | 10,709                                 | 31,512           |
| <b>Total revenue</b>                                  | <b>142,351</b>                          | <b>152,883</b>   | <b>414,791</b>                         | <b>450,513</b>   |
| <b>Costs and expenses:</b>                            |   |                  |  |                  |
| Cost of license                                       | 1,211                                   | 1,316            | 4,615                                  | 4,106            |
| Cost of cloud subscriptions, maintenance and services | 59,975                                  | 51,103           | 173,446                                | 159,111          |
| Cost of hardware                                      | -                                       | 10,653           | -                                      | 23,789           |
| Research and development                              | 18,453                                  | 14,747           | 53,688                                 | 43,074           |
| Sales and marketing                                   | 10,726                                  | 10,739           | 37,419                                 | 34,260           |
| General and administrative                            | 13,711                                  | 11,031           | 39,396                                 | 34,290           |
| Depreciation and amortization                         | 2,179                                   | 2,275            | 6,616                                  | 6,863            |
| Restructuring charge                                  | -                                       | (77)             | -                                      | 2,945            |
| <b>Total costs and expenses</b>                       | <b>106,255</b>                          | <b>101,787</b>   | <b>315,180</b>                         | <b>308,438</b>   |
| Operating income                                      | 36,096                                  | 51,096           | 99,611                                 | 142,075          |
| Other income (loss), net                              | 1,538                                   | 207              | 3,245                                  | (232)            |
| Income before income taxes                            | 37,634                                  | 51,303           | 102,856                                | 141,843          |
| Income tax provision                                  | 9,179                                   | 18,704           | 24,081                                 | 49,876           |
| <b>Net income</b>                                     | <b>\$ 28,455</b>                        | <b>\$ 32,599</b> | <b>\$ 78,775</b>                       | <b>\$ 91,967</b> |
| Basic earnings per share                              | \$ 0.43                                 | \$ 0.47          | \$ 1.18                                | \$ 1.33          |
| Diluted earnings per share                            | \$ 0.43                                 | \$ 0.47          | \$ 1.18                                | \$ 1.32          |
| <b>Weighted average number of shares:</b>             |   |                  |  |                  |
| Basic   | 65,658                                  | 68,928           | 66,539                                 | 69,389           |
| Diluted   | 65,901                                  | 69,135           | 66,717                                 | 69,614           |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES**  
**Consolidated Statements of Comprehensive Income**  
(in thousands)

|   | <u>Three Months Ended September 30,</u> |                  | <u>Nine Months Ended September 30,</u> |                  |
|---|---|------------------|--|------------------|
|   | <u>2018</u>                             | <u>2017</u>      | <u>2018</u>                            | <u>2017</u>      |
|   | (unaudited)                             | (unaudited)      | (unaudited)                            | (unaudited)      |
| Net income                              | \$ 28,455                               | \$ 32,599        | \$ 78,775                              | \$ 91,967        |
| Foreign currency translation adjustment | (2,478)                                 | 376              | (6,049)                                | 3,148            |
| Comprehensive income                    | <u>\$ 25,977</u>                        | <u>\$ 32,975</u> | <u>\$ 72,726</u>                       | <u>\$ 95,115</u> |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES**  
**Condensed Consolidated Statements of Cash Flows**  
(in thousands)

|   | Nine Months Ended September 30, |                     |
|---|---------------------------------|---------------------|
|   | 2018<br>(unaudited)             | 2017<br>(unaudited) |
| <b>Operating activities:</b>  |                                 |                     |
| Net income  | \$ 78,775                       | \$ 91,967           |
| Adjustments to reconcile net income to net cash provided by operating activities: |                                 |                     |
| Depreciation and amortization   | 6,616                           | 6,863               |
| Equity-based compensation   | 14,573                          | 11,041              |
| Loss on disposal of equipment   | 56                              | 34                  |
| Deferred income taxes   | (244)                           | 741                 |
| Unrealized foreign currency (gain) loss   | (1,373)                         | 93                  |
| Changes in operating assets and liabilities:                                      |                                 |                     |
| Accounts receivable, net  | (1,995)                         | 5,095               |
| Other assets  | (5,296)                         | (940)               |
| Accounts payable, accrued and other liabilities                                   | 11,059                          | (2,273)             |
| Income taxes  | (7,488)                         | (2,151)             |
| Deferred revenue  | 8,635                           | 6,169               |
| Net cash provided by operating activities   | <u>103,318</u>                  | <u>116,639</u>      |
| <b>Investing activities:</b>  |                                 |                     |
| Purchase of property and equipment  | (5,536)                         | (3,897)             |
| Net purchases of investments  | (5,196)                         | (4,487)             |
| Net cash used in investing activities   | <u>(10,732)</u>                 | <u>(8,384)</u>      |
| <b>Financing activities:</b>  |                                 |                     |
| Purchase of common stock  | (124,558)                       | (81,700)            |
| Net cash used in financing activities   | <u>(124,558)</u>                | <u>(81,700)</u>     |
| Foreign currency impact on cash   | <u>(3,801)</u>                  | <u>2,648</u>        |
| Net change in cash and cash equivalents   | <u>(35,773)</u>                 | <u>29,203</u>       |
| Cash and cash equivalents at beginning of period                                  | <u>125,522</u>                  | <u>95,615</u>       |
| Cash and cash equivalents at end of period  | <u>\$ 89,749</u>                | <u>\$ 124,818</u>   |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES**  
**Condensed Consolidated Statements of Shareholders' Equity**  
(in thousands, except share data)

|  | Common Stock       |               | Additional<br>Paid-In<br>Capital | Retained<br>Earnings | Accumulated<br>Other<br>Comprehensive<br>(Loss) Income | Total<br>Shareholders'<br>Equity |
|--|--------------------|---------------|----------------------------------|----------------------|--|----------------------------------|
|  | Shares             | Amount        |                                  |                      |  |                                  |
| Balance, December 31, 2016 (audited)   | 70,233,955         | \$ 702        | \$ -                             | \$ 184,558           | \$ (15,894)  | \$ 169,366                       |
| Repurchase of common stock   | (2,829,850)        | (28)          | (18,050)                         | (113,629)            | -  | (131,707)                        |
| Restricted stock units issuance  | 372,033            | 4             | (4)                              | -                    | -  | -                                |
| Equity-based compensation  | -                  | -             | 16,229                           | -                    | -  | 16,229                           |
| Adjustment due to adoption of ASU 2016-09,<br>Compensation - Stock Compensation:<br>Improvements to Employee Share-Based<br>Payment Accounting | -                  | -             | 1,825                            | (1,293)              | -  | 532                              |
| Foreign currency translation adjustment  | -                  | -             | -                                | -                    | 4,055  | 4,055                            |
| Net income   | -                  | -             | -                                | 116,481              | -  | 116,481                          |
| Balance, December 31, 2017 (audited)   | 67,776,138         | 678           | -                                | 186,117              | (11,839)   | 174,956                          |
| Repurchase of common stock   | <b>(2,744,126)</b> | <b>(27)</b>   | <b>(14,570)</b>                  | <b>(109,961)</b>     | -  | <b>(124,558)</b>                 |
| Restricted stock units issuance  | 346,457            | 3             | (3)                              | -                    | -  | -                                |
| Equity-based compensation  | -                  | -             | 14,573                           | -                    | -  | 14,573                           |
| Adjustment due to adoption of ASC 2014-09,<br>Revenue from Contracts with Customers<br>(Topic 606)   | -                  | -             | -                                | 1,981                | -  | 1,981                            |
| Foreign currency translation adjustment  | -                  | -             | -                                | -                    | (6,049)  | (6,049)                          |
| Net income   | -                  | -             | -                                | 78,775               | -  | 78,775                           |
| <b>Balance, September 30, 2018 (unaudited)</b>   | <b>65,378,469</b>  | <b>\$ 654</b> | <b>\$ -</b>                      | <b>\$ 156,912</b>    | <b>\$ (17,888)</b>                                     | <b>\$ 139,678</b>                |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

**Notes to Condensed Consolidated Financial Statements**  
**(Unaudited)**

**1. Basis of Presentation and Principles of Consolidation**

**Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements of Manhattan Associates, Inc. and its subsidiaries (the “Company,” “we,” “us,” or “our,” or “Manhattan”) have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) for interim financial information, with the instructions to Form 10-Q and with Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required for complete financial statements. In the opinion of management, these condensed consolidated financial statements contain all normal recurring adjustments considered necessary for a fair presentation of our financial position at September 30, 2018, the results of operations for the three and nine months ended September 30, 2018 and 2017, and cash flows for the nine months ended September 30, 2018 and 2017. The results for the three and nine months ended September 30, 2018 are not necessarily indicative of the results to be expected for the full year or any other interim period. These statements should be read in conjunction with our audited consolidated financial statements and management’s discussion and analysis included in our annual report on Form 10-K for the year ended December 31, 2017.

**Principles of Consolidation**

The accompanying condensed consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

**Reclassifications**

Certain line items in prior period financial statements have been reclassified to conform to the current period presentation in the condensed consolidated statements of income due to our business transition from perpetual software license to cloud subscriptions. We believe separate disclosures of our software license, cloud subscription, maintenance and service revenue are meaningful to investors and provide important measures of our business performance. The line items in prior period financial statements that have been reclassified to conform to the current period presentation in the condensed consolidated statements of income, include: all revenue line items; cost of license; cost of cloud subscriptions, maintenance and services; and cost of hardware. Such reclassifications did not affect total revenues, operating income or net income.

**New Accounting Pronouncements Adopted in Fiscal Year 2018**

*Revenue Recognition*

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-09, Revenue Recognition – Revenue from Contracts with Customers (Topic 606), which, along with its subsequent amendments, replaced substantially all revenue recognition guidance. The new standard provides accounting guidance for all revenue arising from contracts with customers and affects all entities that enter into contracts to provide goods or services to their customers unless the contracts are in the scope of other standards.

On January 1, 2018, we adopted Topic 606 using the modified retrospective method applied to those contracts which were not completed as of January 1, 2018. Results of reporting periods beginning after January 1, 2018 are presented under Topic 606, while prior period amounts are not adjusted and continue to be reported under the previous revenue recognition standard (Topic 605). Historical hardware sales prior to the adoption of Accounting Standards Codification (ASC) 606 were recorded on a gross basis, as we were the principal in the transaction in accordance with ASC 605-45. Under the new standard, we are an agent in the transaction as we do not physically control the hardware which we sell; accordingly, we recognize our hardware revenue net of related cost which reduces both hardware revenue and cost of sales as compared to our accounting prior to 2018. Otherwise, the adoption of ASC 606 does not have a material impact on the measurement or recognition of revenue in any prior or current reporting periods.

However, based on expected renewals of maintenance and multi-year cloud subscriptions, we must defer a portion of our sales commission expense and amortize it over time as the corresponding services are transferred to the customer under the new standard. As a result, we recorded a net increase to opening retained earnings of \$2.0 million, net of tax, as of January 1, 2018 for commissions expense required to be deferred on contracts not completed as of that date.

Had we presented the results for the three and nine months ended September 30, 2018 under Topic 605, we would have presented hardware revenue gross which would have increased hardware revenue and cost of hardware each by \$7.5 million and \$27.3



million, respectively. We would have also expensed all sales commissions upon contract completion which would have increased sales and marketing expense by \$0.6 million and \$1.4 million for the three and nine months ended September 30, 2018, respectively.

#### *Stock Compensation*

In June 2018, the FASB issued ASU 2018-07, Compensation – Stock Compensation (Topic 718), Improvements to Nonemployee Share-Based Payment Accounting (ASU 2018-07). The new guidance expands the scope of ASC 718, Compensation – Stock Compensation, to include share-based payments granted to nonemployees in exchange for goods or services used or consumed in an entity’s operations, and supersedes the guidance in ASC 505-50, Equity-Based Payments to NonEmployees. Once adopted, the fair value of awards granted to nonemployees will be determined as of the grant date and recognized, in expense, over the service period. Previous guidance required the fair value of awards granted to nonemployees to be remeasured at intervals in determining the expense to be recognized. ASU 2018-07 is effective for public business entities in annual periods beginning after December 15, 2018 (first quarter 2019 for us). We early adopted ASU 2018-07 in the third quarter of 2018, and the adoption did not impact our financial statements.

#### **New Accounting Pronouncements Not Yet Adopted**

##### *Leases*

In February 2016, the FASB issued ASU 2016-02, Leases, which established new ASC Topic 842 (ASC 842), to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. Under the new guidance, a lessee will be required to recognize assets and liabilities for leases with lease terms of more than 12 months. Consistent with current GAAP, the recognition, measurement, and presentation of expenses and cash flows arising from a lease by a lessee primarily will depend on its classification as a finance or operating lease. However, unlike current GAAP which requires only capital leases to be recognized on the balance sheet, the new standard will require both types of leases to be recognized on the balance sheet. ASC 842 also will require disclosures to help investors and other financial statement users better understand the amount, timing, and uncertainty of cash flows arising from leases. These disclosures include qualitative and quantitative requirements, providing additional information about the amounts recorded in the financial statements.

ASC 842 was previously required to be adopted using the modified retrospective approach. However, in July 2018, the FASB issued ASU 2018-11, which allows for retrospective application with the recognition of a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. Under this option, entities would not need to apply ASC 842 (along with its disclosure requirements) to the comparative prior periods presented.

ASC 842 is effective for us in the first quarter of 2019 and we expect that most of our operating leases (primarily office space) will be recognized as operating lease liabilities and right of use assets on our balance sheet. We are continuing to evaluate the impact that the adoption of this standard will have on our financial statements but currently believe it is likely that we will elect to adopt certain of the optional practical expedients, including the package of practical expedients, which, among other things, gives us the option to not reassess: 1) whether expired or existing contracts are or contain leases; 2) the lease classification for expired or existing leases; and 3) initial direct costs for existing leases.

## **2. Revenue Recognition**

We recognize revenue when we transfer control of the promised products or services to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those products or services. We derive our revenue from software licenses, cloud subscriptions, customer support services and software enhancements (“maintenance”), implementation and training services, and sales of hardware. We exclude sales and usage-based taxes from revenue.

#### *Nature of Products and Services*

Our perpetual software licenses provide the customer with a right to use the software as it exists at the time of purchase. We recognize revenue for distinct software licenses once the license period has begun and we have made the software available to the customer.

Cloud subscriptions includes software as a service (“SaaS”) and arrangements which provide customers with the right to use our software within a cloud-based environment that we provide and manage where the customer does not have the right to take possession of the software without significant penalty. SaaS and hosting revenues are recognized ratably over the contract period. For contracts that include a perpetual license and hosting services, we generally consider the arrangement as an overall service, recognized over the initial hosting term. The software license fee typically due at the outset of the arrangement is not payable again if the

customer renews the hosting services, so that the customer's option to renew the hosting services is a material right, the revenue from which, if the option is exercised, we will recognize over the applicable renewal period.

Our perpetual software licenses are typically sold with maintenance under which we provide a comprehensive 24 hours per day, 365 days per year program that provides customers with software upgrades, when and if available, which include additional or improved functionality and technological advances incorporating emerging supply chain and industry initiatives. Revenue related to maintenance is generally paid in advance and recognized ratably over the term of the agreement, typically twelve months.

Our services revenue consists of fees generated from implementation and training services, including reimbursements of out-pocket expenses in connection with our services. Services include system planning, design, configuration, testing, and other software implementation support, and are typically optional and distinct from our software. Fees for our services are separately priced and are generally billed on an hourly basis, and revenue is recognized over time as the services are performed. In certain situations, we render professional services under agreements based upon a fixed fee for portions of or all of the engagement. Revenue related to fixed-fee-based services contracts is recognized over time based on the proportion performed. The total amount of expense reimbursement included in services revenue was \$4.4 million and \$5.0 million for the three months ended September 30, 2018 and 2017, respectively, and \$12.1 million and \$13.8 million for the nine months ended September 30, 2018 and 2017, respectively.

As part of a complete solution, our customers periodically purchase hardware products developed and manufactured by third parties from us for use with the software licenses purchased from us. These products include computer hardware, radio frequency terminal networks, radio frequency identification (RFID) chip readers, bar code printers and scanners, and other peripherals. As we do not physically control the hardware that we sell, we are acting as an agent in the transaction and recognize our hardware revenue net of related cost. We recognize hardware revenue when control is transferred to the customer upon shipment.

#### *Significant Judgements*

Our contracts with customers typically contain promises to transfer multiple products and services to a customer. Judgement is required to determine whether each product and service is considered to be a distinct performance obligation that should be accounted for separately under the contract. We allocate the transaction price to the distinct performance obligations based on relative standalone selling price ("SSP"). We estimate SSP based on the prices charged to customers, or by using information such as market conditions and other observable inputs. However, the selling price of our software licenses is highly variable. Thus, we estimate SSP for software licenses using the residual approach, determined based on total transaction price less the SSP of other goods and services promised in the contract.

#### *Contract Balances*

Timing of invoicing to customers may differ from timing of revenue recognition. Payment terms for our software licenses vary. We have an established history of collecting under the terms of our software license contracts without providing refunds or concessions to our customers. Cloud subscriptions and maintenance are typically billed annually in advance. Services are typically billed monthly as performed. In instances where the timing of revenue recognition differs from the timing of invoicing, we have determined that our contracts generally do not include a significant financing component. The primary purpose of our invoicing terms is to provide customers with predictable ways to purchase our software and services, not to provide or receive financing. Additionally, we are applying the practical expedient to exclude from consideration any contracts with payment terms of one year or less as we rarely offer terms extending beyond one year.

Deferred revenue mainly represents amounts collected prior to having completed performance of maintenance, cloud subscriptions and professional services. \$13.4 million and \$66.8 million of revenue that was included in the deferred revenue balance as of December 31, 2017 was recognized during the three and nine months ended September 30, 2018, respectively. \$38.4 million of revenue that was included in the deferred revenue balance as of June 30, 2018 was recognized during the three months ended September 30, 2018.

There was no revenue recognized during the three and nine months ended September 30, 2018 from performance obligations that were satisfied in prior periods.

#### *Remaining Performance Obligations*

As of September 30, 2018, approximately \$64.2 million of revenue is expected to be recognized from remaining performance obligations for cloud subscriptions and maintenance contracts with a non-cancelable term greater than 1 year (including deferred revenue as well as amounts that will be invoiced and recognized as revenue in future periods). We expect to recognize revenue on

approximately two-thirds of these remaining performance obligations over the next 24 months with the balance recognized thereafter. We have elected not to provide disclosures regarding remaining performance obligations for contracts with a term of 1 year or less.

#### *Returns and Allowances*

We have not experienced significant returns or warranty claims to date and, as a result, have not recorded a provision for the cost of returns and product warranty claims.

We record an allowance for doubtful accounts based on the historical experience of write-offs and a detailed assessment of accounts receivable. Additions to the allowance for doubtful accounts generally represent a sales allowance on services revenue, which are recorded to operations as a reduction to services revenue. The total amount charged to operations was \$0.4 million and \$3.2 million for the three and nine months ended September 30, 2018, respectively. In estimating the allowance for doubtful accounts, we consider the age of the accounts receivable, our historical write-offs, and the creditworthiness of the customer, among other factors. Should any of these factors change, the estimates made by us will also change accordingly, which could affect the level of our future allowances. Uncollectible accounts are written off when it is determined that the specific balance is not collectible.

#### *Deferred Commissions*

We consider sales commissions to be incremental costs of obtaining a contract with a customer. We defer and recognize an asset for sales commissions related to performance obligations with an expected period of benefit of more than one year. We apply the practical expedient to expense sales commissions when the amortization period would have been one year or less. Deferred commissions were \$3.2 million as of September 30, 2018, of which \$2.2 million is included in other assets and \$1.0 million is included in prepaid expenses and other current assets. Sales commission expense is included in Sales and Marketing expense in the accompanying consolidated statement of operations. Amortization of sales commissions was \$0.3 million and \$0.7 million for the three and nine months ended September 30, 2018, respectively. No impairment losses were recognized during the periods.

### **3. Fair Value Measurement**

We measure our investments based on a fair value hierarchy disclosure framework that prioritizes and ranks the level of market price observability used in measuring assets and liabilities at fair value. Market price observability is affected by a number of factors, including the type of asset or liability and its characteristics. This hierarchy prioritizes the inputs into three broad levels as follows:

- Level 1—Quoted prices in active markets for identical instruments.
- Level 2—Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets.
- Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

Investments with maturities of 90 days or less from the date of purchase are classified as cash equivalents; investments with maturities of greater than 90 days from the date of purchase but less than one year are generally classified as short-term investments; and investments with maturities of one year or greater from the date of purchase are generally classified as long-term investments. Unrealized holding gains and losses are reflected as a net amount in a separate component of shareholders' equity until realized. For the purposes of computing realized gains and losses, cost is determined on a specific identification basis.

At September 30, 2018, our cash, cash equivalents, and short-term investments were \$71.8 million, \$18.0 million, and \$4.1 million, respectively. We currently have no long-term investments. Cash equivalents consist of highly liquid money market funds and certificates of deposit. Short-term investments consist of certificates of deposit. For money market funds, we use quoted prices from active markets that are classified at Level 1, the highest level of observable input in the disclosure hierarchy framework. At September 30, 2018 and December 31, 2017, we had \$9.6 million and \$10.5 million, respectively, in money market funds, which are classified at Level 1 and are included in cash and cash equivalents on the Condensed Consolidated Balance Sheets. We have no investments classified at Level 2 or Level 3.

### **4. Equity-Based Compensation**

We granted 13,665 and 97,458 restricted stock units ("RSUs") during the three months ended September 30, 2018 and 2017, respectively, and granted 522,672 and 458,449 RSUs, during the nine months ended September 30, 2018 and 2017, respectively.

Equity-based compensation expense related to RSUs was \$5.3 million and \$3.8 million during the three months ended September 30, 2018 and 2017, respectively, and \$14.6 million and \$11.0 million during the nine months ended September 30, 2018 and 2017, respectively.

A summary of changes in unvested shares/units for the nine months ended September 30, 2018 is as follows:

|  | <b>Number of<br/>shares/units</b> |
|--|-----------------------------------|
| <b>Outstanding at December 31, 2017</b>  | <b>1,036,635</b>                  |
| Granted                                  | 522,672                           |
| Vested                                   | (379,312)                         |
| Forfeited                                | (180,956)                         |
| <b>Outstanding at September 30, 2018</b> | <b>999,039</b>                    |

## 5. Income Taxes

Our effective tax rate was 24.4% and 36.5% for the three months ended September 30, 2018 and 2017, respectively, and 23.4% and 35.2% for the nine months ended September 30, 2018 and 2017, respectively. The decrease in the effective tax rate for the three months ended September 30, 2018 is a result of the reduction of the U.S. statutory tax rate from 35% to 21%. The decrease in the effective tax rate for the nine months ended September 30, 2018 primarily relates to the reduction of the U.S. statutory tax rate from 35% to 21%, partially offset by a decrease of \$1.1 million in excess tax benefits on restricted stock vesting. We also reduced our provisional one-time estimate for the impact of tax reform discussed below by \$0.3 million.

### *U.S. Tax Reform*

On December 22, 2017, the United States enacted tax reform legislation pursuant to the Tax Cuts and Jobs Act (the Act). The Act reduces the U.S. federal corporate income tax rate from 35% to 21%, requires companies to pay a one-time transition tax on earnings of certain foreign subsidiaries that were previously tax deferred and creates new taxes on certain foreign sourced earnings. We are applying the guidance in Staff Accounting Bulletin (SAB) 118 when accounting for the enactment-date effects of the Act. At September 30, 2018, we have made a reasonable estimate of the effects of the Act. We will continue to make and refine our calculations as we complete additional analysis. Our estimates may also be affected as we gain a more thorough understanding of the tax law, as more guidance/technical corrections are released by the Internal Revenue Service (IRS) and/or Congress. These changes could be material to income tax expense.

In December 2017, we recorded a provisional estimate of \$3.3 million for the one-time deemed repatriation transition tax on unrepatriated foreign earnings. The one-time transition tax is based on our total earnings and profits (E&P) which we deferred from the U.S. income taxes under the previous U.S. law. As we continue to refine our E&P analysis, we will refine our calculations of the one-time transition tax, which could affect the measurement of this liability. We have not provided additional income taxes for any remaining undistributed foreign earnings not subject to the transition tax, or any additional outside basis difference inherent in our foreign subsidiaries, as these amounts continue to be indefinitely reinvested in foreign operations.

In December 2017, we also recorded a provisional write-down to deferred tax assets of \$0.7 million related to changes in section 162(m), Internal Revenue Code of 1986, regarding deductions for excessive employee compensation. We continue to gather and analyze information, including the definition of an employee contract for stock grants not vested as of the enactment date of the Act and the potential impact of Notice 2018-68 released by the Internal Revenue Service during the quarter, which provided initial guidance on the application of Code section 162(m) after Tax Reform. We reduced this estimate by \$0.3 million during the nine months ended September 30, 2018.

The Act also subjects a U.S. shareholder to tax on global intangible low taxed income (GILTI) earned by certain foreign subsidiaries. The Staff of the FASB provided additional guidance to address the accounting for the effects of the provisions related to the taxation of GILTI, noting that an entity can make an accounting policy election to either recognize deferred taxes for temporary differences expected to reverse as GILTI in future years or provide for the tax expense related to GILTI in the year the tax is incurred as a period cost only. Given the complexity of the GILTI provisions, we are still evaluating the effects of the GILTI provisions and have not yet determined our accounting policy. At September 30, 2018, because we are still evaluating the GILTI provisions and our analysis of future taxable income that is subject to GILTI, we have included GILTI related to current-year operations only in our effective tax rate and have not provided additional GILTI on deferred items.

We apply the provisions for income taxes related to, among other things, accounting for uncertain tax positions and disclosure requirements in accordance with ASC 740, Income Taxes. For the three months ended September 30, 2018, there were no material changes to our uncertain tax positions. There has been no change to our policy that recognizes potential interest and penalties related to uncertain tax positions within our global operations in income tax expense.

We conduct business globally and, as a result, file income tax returns in the U.S. federal jurisdiction and various state and foreign jurisdictions. In the normal course of business, Manhattan is subject to examination by taxing authorities throughout the world. We are no longer subject to the U.S. federal, substantially all state and local income tax examinations and substantially all non-U.S. income tax examinations for years before 2012.

## 6. Net Earnings Per Share

Basic net earnings per share is computed using net income divided by the weighted average number of shares of common stock outstanding (“Weighted Shares”) for each period presented. Diluted net earnings per share is computed using net income divided by the sum of Weighted Shares and common equivalent shares (CESs) outstanding for each period presented using the treasury stock method.

The following is a reconciliation of the net income and share amounts used in the computation of basic and diluted net earnings per common share for the three and nine months ended September 30, 2018 and 2017 (in thousands, except per share data):

|   | Three Months Ended September 30,      |           | Nine Months Ended September 30,       |           |
|---|---------------------------------------|-----------|---------------------------------------|-----------|
|   | 2018                                  | 2017      | 2018                                  | 2017      |
|   | (in thousands, except per share data) |           | (in thousands, except per share data) |           |
| Net income                                | \$ 28,455                             | \$ 32,599 | \$ 78,775                             | \$ 91,967 |
| <b>Earnings per share:</b>                |                                       |           |                                       |           |
| Basic                                     | \$ 0.43                               | \$ 0.47   | \$ 1.18                               | \$ 1.33   |
| Effect of CESs                            | -                                     | -         | -                                     | (0.01)    |
| Diluted                                   | \$ 0.43                               | \$ 0.47   | \$ 1.18                               | \$ 1.32   |
| <b>Weighted average number of shares:</b> |                                       |           |                                       |           |
| Basic                                     | 65,658                                | 68,928    | 66,539                                | 69,389    |
| Effect of CESs                            | 243                                   | 207       | 178                                   | 225       |
| Diluted                                   | 65,901                                | 69,135    | 66,717                                | 69,614    |

The number of anti-dilutive CESs during 2018 and 2017 was immaterial.

## 7. Contingencies

From time to time, we may be involved in litigation relating to claims arising out of the ordinary course of business, and occasionally legal proceedings not in the ordinary course. Many of our installations involve products that are critical to the operations of our clients’ businesses. Any failure in a company’s product could result in a claim for substantial damages against us, regardless of our responsibility for such failure. Although we attempt to limit contractually our liability for damages arising from product failures or negligent acts or omissions, there can be no assurance that the limitations of liability set forth in our contracts will be enforceable in all instances. We are not currently a party to any legal proceedings the result of which we believe is likely to have a material adverse impact on our business, financial position, results of operations, or cash flows. We expense legal costs associated with loss contingencies as such legal costs are incurred.

## 8. Operating Segments

We manage our business by geographic segment, and have three geographic reportable segments: North and Latin America (the “Americas”); Europe, the Middle East and Africa (EMEA); and Asia Pacific (APAC). All segments derive revenue from the sale and implementation of our supply chain commerce solutions. The individual products sold by the segments are similar in nature and are all designed to help companies manage the effectiveness and efficiency of their supply chain commerce. We use the same accounting policies for each reportable segment. The chief executive officer and chief financial officer evaluate performance based on revenue and operating results for each reportable segment.

The Americas segment charges royalty fees to the other segments based on software licenses and cloud subscriptions sold by those reportable segments. The royalties, which totaled approximately \$1.4 million and \$1.0 million for the quarters ended September 30, 2018 and 2017, respectively, and approximately \$3.0 million and \$5.4 million for the nine months ended September 30, 2018 and 2017, respectively, are included in costs of revenue for each segment with a corresponding reduction in the Americas segment's cost of revenue. The revenues represented below are from external customers only. The geography-based costs consist of costs for professional services personnel, direct sales and marketing expenses, infrastructure costs to support the employee and customer base, billing and financial systems, management and general and administrative support. Certain corporate expenses included in the Americas segment are not charged to the other segments. Such expenses include research and development, certain marketing and general and administrative costs that support the global organization, and the amortization of acquired developed technology. Costs in the Americas segment include all research and development costs, including the costs associated with our operations in India.

The following table presents our revenues, expenses and operating income by reportable segment for the three and nine months ended September 30, 2018 and 2017 (in thousands):

|                               | <b>Three Months Ended September 30,</b> |                 |                 |                     |                  |                 |                 |                     |
|-------------------------------|---|-----------------|-----------------|---------------------|------------------|-----------------|-----------------|---------------------|
|                               | <b>2018</b>                             |                 |                 |                     | <b>2017</b>      |                 |                 |                     |
|                               | <b>Americas</b>                         | <b>EMEA</b>     | <b>APAC</b>     | <b>Consolidated</b> | <b>Americas</b>  | <b>EMEA</b>     | <b>APAC</b>     | <b>Consolidated</b> |
| <b>Revenue:</b>               |   |                 |                 |                     |                  |                 |                 |                     |
| Software license              | \$ 7,456                                | \$ 2,743        | \$ 1,327        | \$ 11,526           | \$ 12,364        | \$ 2,002        | \$ 1,894        | \$ 16,260           |
| Cloud subscriptions           | 5,650                                   | 673             | 132             | 6,455               | 2,378            | 156             | -               | 2,534               |
| Maintenance                   | 29,761                                  | 5,268           | 2,148           | 37,177              | 29,178           | 5,088           | 2,072           | 36,338              |
| Services                      | 67,973                                  | 12,487          | 3,676           | 84,136              | 67,409           | 11,207          | 5,595           | 84,211              |
| Hardware                      | 3,046                                   | 10              | 1               | 3,057               | 13,504           | -               | 36              | 13,540              |
| Total revenue                 | <u>113,886</u>                          | <u>21,181</u>   | <u>7,284</u>    | <u>142,351</u>      | <u>124,833</u>   | <u>18,453</u>   | <u>9,597</u>    | <u>152,883</u>      |
| <b>Costs and Expenses:</b>    |   |                 |                 |                     |                  |                 |                 |                     |
| Cost of revenue               | 47,099                                  | 10,440          | 3,647           | 61,186              | 50,777           | 8,493           | 3,802           | 63,072              |
| Operating expenses            | 38,655                                  | 3,151           | 1,084           | 42,890              | 32,746           | 2,701           | 1,070           | 36,517              |
| Depreciation and amortization | 1,932                                   | 177             | 70              | 2,179               | 2,092            | 131             | 52              | 2,275               |
| Restructuring charge          | -                                       | -               | -               | -                   | (77)             | -               | -               | (77)                |
| Total costs and expenses      | <u>87,686</u>                           | <u>13,768</u>   | <u>4,801</u>    | <u>106,255</u>      | <u>85,538</u>    | <u>11,325</u>   | <u>4,924</u>    | <u>101,787</u>      |
| Operating income              | <u>\$ 26,200</u>                        | <u>\$ 7,413</u> | <u>\$ 2,483</u> | <u>\$ 36,096</u>    | <u>\$ 39,295</u> | <u>\$ 7,128</u> | <u>\$ 4,673</u> | <u>\$ 51,096</u>    |

**Nine Months Ended September 30,**

|                               | 2018      |           |          |              | 2017       |           |           |              |
|-------------------------------|-----------|-----------|----------|--------------|------------|-----------|-----------|--------------|
|                               | Americas  | EMEA      | APAC     | Consolidated | Americas   | EMEA      | APAC      | Consolidated |
| <b>Revenue:</b>               |           |           |          |              |            |           |           |              |
| Software license              | \$ 19,599 | \$ 7,357  | \$ 5,098 | \$ 32,054    | \$ 35,858  | \$ 17,076 | \$ 4,667  | \$ 57,601    |
| Cloud subscriptions           | 14,623    | 1,441     | 237      | 16,301       | 6,252      | 156       | -         | 6,408        |
| Maintenance                   | 88,340    | 15,898    | 6,329    | 110,567      | 86,218     | 13,816    | 5,639     | 105,673      |
| Services                      | 198,352   | 36,995    | 9,813    | 245,160      | 201,820    | 32,782    | 14,717    | 249,319      |
| Hardware                      | 10,532    | 10        | 167      | 10,709       | 31,458     | 11        | 43        | 31,512       |
| Total revenue                 | 331,446   | 61,701    | 21,644   | 414,791      | 361,606    | 63,841    | 25,066    | 450,513      |
| <b>Costs and Expenses:</b>    |           |           |          |              |            |           |           |              |
| Cost of revenue               | 135,662   | 31,614    | 10,785   | 178,061      | 149,112    | 26,715    | 11,179    | 187,006      |
| Operating expenses            | 116,828   | 10,382    | 3,293    | 130,503      | 99,625     | 8,743     | 3,256     | 111,624      |
| Depreciation and amortization | 5,849     | 565       | 202      | 6,616        | 6,313      | 392       | 158       | 6,863        |
| Restructuring charge          | -         | -         | -        | -            | 2,831      | 114       | -         | 2,945        |
| Total costs and expenses      | 258,339   | 42,561    | 14,280   | 315,180      | 257,881    | 35,964    | 14,593    | 308,438      |
| Operating income              | \$ 73,107 | \$ 19,140 | \$ 7,364 | \$ 99,611    | \$ 103,725 | \$ 27,877 | \$ 10,473 | \$ 142,075   |

The majority of our software license revenue (70-80%) relates to our warehouse management product group. Cloud subscriptions revenue primarily relates to our Manhattan Active omnichannel and transportation management solutions.

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

The following discussion should be read in conjunction with the condensed consolidated financial statements for the three and nine months ended September 30, 2018 and 2017, including the notes to those statements, included elsewhere in this quarterly report. We also recommend the following discussion be read in conjunction with management's discussion and analysis and consolidated financial statements included in our annual report on Form 10-K for the year ended December 31, 2017. Statements in the following discussion that are not statements of historical fact are "forward-looking statements." Actual results may differ materially from the results predicted in such forward-looking statements, for a variety of factors. See "Forward-Looking Statements" below.

References in this filing to the "Company," "Manhattan," "Manhattan Associates," "we," "our," and "us" refer to Manhattan Associates, Inc., our predecessors, and our wholly-owned and consolidated subsidiaries.

### Business Overview

We develop, sell, deploy, service and maintain software solutions designed to manage supply chains, inventory and omnichannel operations for retailers, wholesalers, manufacturers, logistics providers and other organizations. Our customers include many of the world's most premier and profitable brands.

Our business model is singularly focused on the development and implementation of complex commerce enablement software solutions that are designed to optimize supply chains, and retail store operations including point of sale effectiveness and efficiency for our customers. In the second quarter of 2017, we accelerated our business transition to cloud subscriptions with the release of our Manhattan Active™ Solutions. Due to our transition to cloud subscriptions, we believe separate disclosures of our software license, cloud subscriptions, maintenance and services revenue is meaningful to investors and provide an important measure of our business performance. Certain line items in prior period financial statements have been reclassified to conform to the current period presentation in the consolidated statements of income. These reclassifications include: all revenue line items; cost of license; cost of cloud subscriptions, maintenance and services; and cost of hardware. Such reclassifications did not affect total revenues, operating income or net income.

We have five principal sources of revenue:

- licenses of our software;
- cloud subscriptions, including software as a service ("SaaS") and hosting of software;
- customer support services and software enhancements (collectively, "maintenance");
- professional services, including solutions planning and implementation, related consulting, customer training, and reimbursements from customers for out-of-pocket expenses (collectively, "services"); and
- hardware sales.

In the three and nine months ended September 30, 2018, we generated \$142.4 million and \$414.8 million in total revenue, respectively. The revenue mix for the three months ended September 30, 2018 was: license revenue 8%; cloud subscription revenue 5%; maintenance revenue 26%; services revenue 59%; and hardware revenue 2%. For the nine months ended September 30, 2018, the revenue mix was: license revenue 7%; cloud subscription revenue 4%; maintenance revenue 27%; services revenue 59%; and hardware revenue 3%.

We have three geographic reportable segments: North and Latin America (the "Americas"), Europe, the Middle East and Africa (EMEA), and Asia-Pacific (APAC). Geographic revenue is based on the location of the sale. Our international revenue was approximately \$42.0 million and \$127.6 million for the three and nine months ended September 30, 2018, respectively, which represents approximately 29% and 31% of our total revenue for the three and nine months ended September 30, 2018, respectively. International revenue includes all revenue derived from sales to customers outside the United States. At September 30, 2018, we employed approximately 3,000 employees worldwide. We have offices in Australia, Chile, China, France, Germany, India, Japan, the Netherlands, Singapore, Spain, the United Kingdom, and the United States, as well as representatives in Mexico and reseller partnerships in Latin America, Eastern Europe, the Middle East, South Africa, and Asia.

### Future Expectations

Our transition to a cloud subscription model, shifting industry dynamics and economic uncertainty in the retail sector negatively impacted our revenue and earnings growth in fiscal 2017, and we expect these factors, as well as macroeconomic conditions as a



whole, to continue to impact revenue and earnings growth. The pace at which the market for our products transitions from perpetual, on-premises installation to cloud subscriptions (which result in revenue recognition spread out over the subscription period rather than up front recognition), and the lead times for developing new business (which can be long for our products) can cause uncertainty for our future expectations, particularly with respect to our ability to accurately forecast bookings and revenues from quarter to quarter and over the longer term.

For 2018, we have set five strategic goals:

- Focus on customer success and drive sustainable growth;
- Continue to aggressively invest in innovation to expand our products and total addressable market;
- Continue to develop and grow our cloud operations and cloud subscription revenue;
- Expand our Manhattan Active Omni/Point-of-Sale/Customer Engagement Business; and
- Expand our global sales and marketing teams.

### **Cloud Subscription**

Historically, our software licenses were sold as perpetual licenses, under which customers own the software license and revenue is recognized at the time of sale. In 2017, we released Manhattan Active™ Solutions, accelerating our business transition to cloud subscriptions. Under a cloud subscription, customers pay a periodic fee for the right to use our software within a cloud-based environment that we provide and manage over a specified period of time. As part of our subscription program, we allow our existing customers to convert their maintenance contracts to cloud subscription contracts. While it is early in our transition, a few customers converted their maintenance contracts to subscriptions in 2017 and also in the nine months ended September 30, 2018, and we believe there will be potential opportunities to convert other existing maintenance contracts to cloud subscription contracts in the fourth quarter of 2018 and beyond.

With the launch of Manhattan Active™ Solutions, the transition to a cloud subscription model has had, and will continue to have, an adverse impact on revenue, earnings and cash flow relative to periods in which we primarily sold perpetual licenses. This effect will continue until a stable, recurring mix of perpetual license to cloud subscription revenue develops.

### **Global Economic Trends and Industry Factors**

Global macro-economic trends, technology spending, and supply chain management market growth are important barometers for our business. In the three and nine months ended September 30, 2018, approximately 71% and 69%, respectively of our total revenue was generated in the United States, 15% for both periods, in EMEA, and the remaining balance in APAC, Canada, and Latin America. In addition, Gartner Inc. (“Gartner”), an information technology research and advisory company, estimates that nearly 80% of every supply chain software solutions investment is spent in the United States and Western Europe; consequently, the health of the U.S. and Western European economies has a meaningful impact on our financial results. We sell technology-based solutions with total pricing, including software and services, in many cases exceeding \$1.0 million. Our software often is a part of a much larger capital commitment associated with facilities expansion and business improvement.

We target market verticals with significant logistics and distribution complexity, which include retail, consumer goods ship to retail, food and beverage, industrial, wholesale, high tech electronics, life sciences and logistics service providers. Our largest market, retail, is experiencing significant business disruption and transformation primarily driven by digital commerce. We believe retail businesses transforming from traditional retail brick and mortar to a technology enabled omni-channel commerce company will be a multi-year trend. While this disruption presents significant opportunity for our company, the complexity of change is extending sales cycles for large license sales and cloud subscriptions. Delays with respect to such decisions can have a material adverse impact on our business, and may further intensify competition in our already highly competitive markets.

While we are encouraged by our results, we, along with many of our customers, remain cautious regarding the pace of global economic growth. We believe global geopolitical and economic volatility likely will continue to shape customers’ and prospects’ enterprise software buying decisions, making it challenging to forecast sales cycles for our products and the timing of large enterprise software license and cloud subscription sales.

### **Revenue**

**License and Cloud Subscription Revenue.** License and cloud subscription revenue, leading indicators of our business performance, are primarily derived from software licensing, and cloud subscription fees, which our customers pay us for supply chain commerce solutions. License revenue totaled \$11.5 million, or 8% of total revenue, with a gross margin of 89.5% for the three months

ended September 30, 2018. For the nine months ended September 30, 2018, license revenue was \$32.0 million, or 7% of total revenue, with a gross margin of 85.6%. The percentage mix of new to existing customers, for license revenue, was approximately 30/70 for the three months ended September 30, 2018 and 40/60 for the nine months ended September 30, 2018.

In the past years, the overall trend has been steady for our large license sales. However, in 2017, we began experiencing extended sales cycles and evaluations with greater focus on capital prioritization as retailers restructure and transform their omni-channel/digital commerce businesses. In addition, during 2017, we introduced Manhattan Active Solutions, our cloud-based solutions, and began to see our customer's transition from perpetual software licenses to cloud based services solutions. For the three months ended September 30, 2018, cloud subscriptions revenue totaled \$6.5 million, or 5% of total revenue. For the nine months ended September 30, 2018, cloud subscriptions revenue totaled \$16.3 million, or 4% of total revenue. We recognize cloud subscriptions revenue ratably over the term of the respective agreements, typically 36 to 60 months.

Both license and cloud subscription revenue growth are influenced by the strength of general economic and business conditions as well as the competitive position of our software products. These revenues generally have long sales cycles and the timing of the closing of a few large license transactions can have a material impact on our quarterly license and cloud subscription revenues, operating profit, operating margins, and earnings per share. For example, \$0.9 million of either pretax profit or expense in the third quarter of 2018 equates to approximately one cent of diluted earnings per share impact.

Our software solutions are focused on core supply chain commerce operations (warehouse management, transportation management, labor management), inventory optimization and omnichannel operations (e-commerce, retail store operations and point of sale), which are intensely competitive markets characterized by rapid technological change. We are a market leader in the supply chain management software solutions market as defined by industry analysts such as ARC Advisory Group and Gartner. Our goal is to extend our position as a leading global supply chain solutions provider by growing our license and cloud subscription revenues faster than our competitors through investment in innovation. We expect to continue to face increased competition from enterprise resource planning (ERP) vendors, supply chain management application vendors and business application software vendors who may broaden their solutions offerings by internally developing, or by acquiring or partnering with independent developers of supply chain planning and execution software. Increased competition could result in price reductions, fewer customer orders, reduced gross margins, and loss of market share.

**Maintenance Revenue.** Our maintenance revenue for the three months ended September 30, 2018 totaled \$37.2 million, or 26% of total revenue. For the nine months ended September 30, 2018, maintenance revenue totaled \$110.6 million, or 27% of total revenue. For maintenance, we offer a comprehensive 24 hours per day, 365 days per year program that provides our customers with software upgrades, when and if available, which include additional or improved functionality and technological advances incorporating emerging supply chain and industry initiatives. The growth of maintenance revenues is influenced by: (1) new license revenue growth; (2) annual renewal of support contracts; (3) increase in customers through acquisitions; (4) fluctuations in currency rates, and (5) conversion of maintenance contracts to cloud subscription contracts. Substantially all of our customers renew their annual support contracts. Over the last three years, the annual revenue renewal rate of customers subscribing to comprehensive support and enhancements has been greater than 90%. Maintenance revenue is generally paid in advance and recognized ratably over the term of the respective agreement, typically twelve months. Maintenance renewal revenue is recognized over the renewal period once we have a contract upon payment from the customer.

**Services revenue.** Services revenue for the three months ended September 30, 2018 was \$84.1 million, or 59% of total revenue. For the nine months ended September 30, 2018, services revenue was \$245.2 million, or 59% of total revenue. Due to our large services revenue mix as a percentage of total revenue, we believe our consolidated operating margin profile may be lower than those of our competitors, and while we believe our services margins are strong, they do lower our operating margin profile as services margins are inherently lower than the margin for license revenue and some of our other revenue sources.

Our professional services organization provides our customers with expertise and assistance in the planning and implementation of our solutions. To ensure a successful product implementation, consultants assist customers with initial system installation, conversion and transfer of historical data onto our systems, ongoing training, education, and system upgrades. We believe the professional services that we provide enable our customers to implement our software quickly, ensures the customer's success with our solutions, strengthens the relationships with our customers, and adds to our industry-specific knowledge base for use in future implementations and product innovations.

Although our professional services are optional, the majority of our customers use at least some portion of such services for planning, implementation, or other related needs. Professional services are typically rendered under time and materials-based contracts with services typically billed on an hourly basis. However, professional services are sometimes rendered under fixed-fee based contracts with payments due on specific dates or milestones.

Our services revenue growth is contingent upon our license revenue, cloud subscriptions and customer upgrade cycles, which, in turn, are influenced by the strength of general economic and business conditions as well as the competitive position of our software products. In addition, our professional services business has competitive exposure to offshore providers and other consulting companies. All of these factors potentially create the risk of pricing pressure, fewer customer orders, reduced gross margins, and loss of market share.

Services revenue also includes reimbursements from customers for out-of-pocket expenses. Expense reimbursements included in services revenue was \$4.4 million and \$12.1 million for the three and nine months ended September 30, 2018, respectively.

**Hardware Revenue.** Our hardware revenue, which we recognize net of related costs as of January 1, 2018, was \$3.1 million, or 2% of total revenue for the three months ended September 30, 2018. For the nine months ended September 30, 2018, our hardware revenue was \$10.7 million, or 3% of total revenue. In conjunction with the licensing of our software, and as a convenience to our customers, we resell a variety of hardware products developed and manufactured by third parties. These products include computer hardware, radio frequency terminal networks, RFID chip readers, bar code printers and scanners, and other peripherals. We resell all third-party hardware products and related maintenance pursuant to agreements with manufacturers or through distributor-authorized reseller agreements pursuant to which we are entitled to purchase hardware products and services at discounted prices. We generally purchase hardware from our vendors only after receiving an order from a customer. As a result, we do not generally maintain hardware inventory.

### **Product Development**

We continue to invest significantly in research and development (R&D) to provide leading solutions that help global manufacturers, wholesalers, distributors, retailers, and logistics providers successfully manage accelerating and fluctuating demands as well as the increasing complexity and volatility of their local and global supply chains, retail store operations and point of sale. Our R&D expenses were \$18.5 million and \$53.7 million for the three and nine months ended September 30, 2018, respectively.

We also expect to continue to focus our R&D resources on the development and enhancement of our core supply chain, inventory optimization, omni-channel and point of sale software solutions. We offer what we believe to be the broadest solutions portfolio in the supply chain solutions marketplace, to address all aspects of inventory optimization, transportation management, distribution management, planning, and omni-channel operations including order management, store inventory & fulfillment, call center and point of sale.

In addition, we plan to continue to enhance our existing solutions and to introduce new ones to address evolving industry standards and market needs. We identify opportunities to further enhance our solutions and to develop and provide new solutions through our customer support organization, as well as through ongoing customer consulting engagements and implementations, interactions with our user groups, associations with leading industry analysts and market research firms, and participation in industry standard setting and research committees. Our solutions address the needs of customers in various vertical markets, including retail, consumer goods, food and grocery, logistics services, industrial products, wholesale, high technology, electronics, life sciences, and government.

### **Cash Flow and Financial Condition**

For the three and nine months ended September 30, 2018, we generated cash flow from operating activities of \$35.2 million and \$103.3 million, respectively. Our cash, cash equivalents and short-term investments at September 30, 2018 totaled \$93.9 million, with no debt on our balance sheet. We currently have no credit facilities. Our primary uses of cash continue to be to provide funding for investments in R&D and operations, to drive earnings growth and to repurchase our common stock.

During the nine months ended September 30, 2018, we repurchased 2,628,918 shares of our common stock for approximately \$118.5 million under our repurchase program, and in October 2018, our Board of Directors confirmed our existing authority to repurchase up to an aggregate of \$50.0 million of our common stock.

For the remainder of 2018, we anticipate that our priorities for the use of cash will continue to be investments in product development and growth of the business. We expect to continue to evaluate acquisition opportunities that are complementary to our product footprint and technology direction and expect to continue to weigh our share repurchase options against cash for acquisitions and investment in the business. We do not anticipate any borrowing requirements for the remainder of 2018 for general corporate purposes.

## Results of Operations

The following table summarizes our consolidated results for the three and nine months ended September 30, 2018 and 2017.

|   | <u>Three Months Ended September 30,</u>      |             | <u>Nine Months Ended</u> |             |
|---|--|-------------|--------------------------|-------------|
|   | <u>2018</u>                                  | <u>2017</u> | <u>September 30,</u>     | <u>2017</u> |
|   | <u>(in thousands, except per share data)</u> |             |                          |             |
| Revenue                                   | \$ 142,351                                   | \$ 152,883  | \$ 414,791               | \$ 450,513  |
| Costs and expenses                        | 106,255                                      | 101,787     | 315,180                  | 308,438     |
| Operating income                          | 36,096                                       | 51,096      | 99,611                   | 142,075     |
| Other income (loss), net                  | 1,538  | 207         | 3,245                    | (232)       |
| Income before income taxes                | 37,634                                       | 51,303      | 102,856                  | 141,843     |
| Net income                                | \$ 28,455                                    | \$ 32,599   | \$ 78,775                | \$ 91,967   |
| Diluted earnings per share                | \$ 0.43                                      | \$ 0.47     | \$ 1.18                  | \$ 1.32     |
| Diluted weighted average number of shares | 65,901                                       | 69,135      | 66,717                   | 69,614      |

We have three geographic reportable segments: the Americas, EMEA, and APAC. Geographic revenue information is based on the location of sale. The revenues represented below are from external customers only. The geography-based expenses include costs of personnel, direct sales, marketing expenses, and general and administrative costs to support the business. Certain corporate expenses included in the Americas segment are not charged to the other segments, including R&D, certain marketing and general and administrative costs that support the global organization, and the amortization of acquired developed technology. Included in the Americas segment costs are all R&D costs, including the costs associated with our operations in India. During the three and nine months ended September 30, 2018 and 2017, we derived the majority of our revenues from sales to customers within our Americas segment. The following table summarizes revenue and operating income by segment:

|                            | Three Months Ended September 30, |            |                         | Nine Months Ended September 30, |            |                         |
|----------------------------|----------------------------------|------------|-------------------------|---------------------------------|------------|-------------------------|
|                            | 2018                             | 2017       | % Change vs. Prior Year | 2018                            | 2017       | % Change vs. Prior Year |
|                            | (in thousands)                   |            |                         | (in thousands)                  |            |                         |
| <b>Revenue:</b>            |                                  |            |                         |                                 |            |                         |
| <b>Software license</b>    |                                  |            |                         |                                 |            |                         |
| Americas                   | 7,456                            | 12,364     | -40%                    | 19,599                          | 35,858     | -45%                    |
| EMEA                       | 2,743                            | 2,002      | 37%                     | 7,357                           | 17,076     | -57%                    |
| APAC                       | 1,327                            | 1,894      | -30%                    | 5,098                           | 4,667      | 9%                      |
| Total software license     | 11,526                           | 16,260     | -29%                    | 32,054                          | 57,601     | -44%                    |
| <b>Cloud subscriptions</b> |                                  |            |                         |                                 |            |                         |
| Americas                   | 5,650                            | 2,378      | 138%                    | 14,623                          | 6,252      | 134%                    |
| EMEA                       | 673                              | 156        | 331%                    | 1,441                           | 156        | 824%                    |
| APAC                       | 132                              | -          | N/A                     | 237                             | -          | N/A                     |
| Total cloud subscriptions  | 6,455                            | 2,534      | 155%                    | 16,301                          | 6,408      | 154%                    |
| <b>Maintenance</b>         |                                  |            |                         |                                 |            |                         |
| Americas                   | 29,761                           | 29,178     | 2%                      | 88,340                          | 86,218     | 2%                      |
| EMEA                       | 5,268                            | 5,088      | 4%                      | 15,898                          | 13,816     | 15%                     |
| APAC                       | 2,148                            | 2,072      | 4%                      | 6,329                           | 5,639      | 12%                     |
| Total maintenance          | 37,177                           | 36,338     | 2%                      | 110,567                         | 105,673    | 5%                      |
| <b>Services</b>            |                                  |            |                         |                                 |            |                         |
| Americas                   | 67,973                           | 67,409     | 1%                      | 198,352                         | 201,820    | -2%                     |
| EMEA                       | 12,487                           | 11,207     | 11%                     | 36,995                          | 32,782     | 13%                     |
| APAC                       | 3,676                            | 5,595      | -34%                    | 9,813                           | 14,717     | -33%                    |
| Total services             | 84,136                           | 84,211     | 0%                      | 245,160                         | 249,319    | -2%                     |
| <b>Hardware</b>            |                                  |            |                         |                                 |            |                         |
| Americas                   | 3,046                            | 13,504     | -77%                    | 10,532                          | 31,458     | -67%                    |
| EMEA                       | 10                               | -          | N/A                     | 10                              | 11         | -9%                     |
| APAC                       | 1                                | 36         | -97%                    | 167                             | 43         | 288%                    |
| Total hardware and other   | 3,057                            | 13,540     | -77%                    | 10,709                          | 31,512     | -66%                    |
| <b>Total Revenue</b>       |                                  |            |                         |                                 |            |                         |
| Americas                   | 113,886                          | 124,833    | -9%                     | 331,446                         | 361,606    | -8%                     |
| EMEA                       | 21,181                           | 18,453     | 15%                     | 61,701                          | 63,841     | -3%                     |
| APAC                       | 7,284                            | 9,597      | -24%                    | 21,644                          | 25,066     | -14%                    |
| Total revenue              | \$ 142,351                       | \$ 152,883 | -7%                     | \$ 414,791                      | \$ 450,513 | -8%                     |
| <b>Operating income:</b>   |                                  |            |                         |                                 |            |                         |
| Americas                   | 26,200                           | 39,295     | -33%                    | 73,107                          | 103,725    | -30%                    |
| EMEA                       | 7,413                            | 7,128      | 4%                      | 19,140                          | 27,877     | -31%                    |
| APAC                       | 2,483                            | 4,673      | -47%                    | 7,364                           | 10,473     | -30%                    |
| Total operating income     | \$ 36,096                        | \$ 51,096  | -29%                    | \$ 99,611                       | \$ 142,075 | -30%                    |

## Condensed Consolidated Financial Summary - Third Quarter 2018

- Diluted earnings per share: \$0.43 in the third quarter of 2018 compared to \$0.47 in the third quarter of 2017.
- Consolidated total revenue: \$142.4 million in the third quarter of 2018, compared to \$152.9 million in the third quarter of 2017.
- Software license revenue: \$11.5 million in the third quarter of 2018, compared to \$16.3 million in the third quarter of 2017.
- Cloud subscription revenue: \$6.5 million in the third quarter of 2018, compared to \$2.5 million in the third quarter of 2017.
- Operating income: \$36.1 million in the third quarter of 2018, compared to \$51.1 million in the third quarter of 2017.
- Cash flow from operations: \$35.2 million in the third quarter of 2018, compared to \$44.0 million in the third quarter of 2017.
- Days sales outstanding: 60 days at September 30, 2018, compared to 64 days at June 30, 2018.
- Cash and investments: \$93.9 million at September 30, 2018, compared to \$83.4 million at June 30, 2018.
- Share repurchases: During the three months ended September 30, 2018, we reduced our common shares outstanding by approximately 0.6%, primarily through the repurchase of approximately 0.4 million shares of our common stock, under the share repurchase program authorized by our board of directors. In October 2018, our Board of Directors confirmed our existing authority to repurchase up to an aggregate of \$50.0 million of our outstanding common stock.

Below we discuss our consolidated results of operations for the third quarters of 2018 and 2017.

### Revenue

|                     | Three Months Ended September 30, |                   |              |                    |              |
|---------------------|----------------------------------|-------------------|--------------|--------------------|--------------|
|                     | 2018                             | 2017              | % Change vs. | % of Total Revenue |              |
|                     | (in thousands)                   |                   | Prior Year   | 2018               | 2017         |
| Software license    | \$ 11,526                        | \$ 16,260         | -29 %        | 8 %                | 10 %         |
| Cloud subscriptions | 6,455                            | 2,534             | 155 %        | 5 %                | 2 %          |
| Maintenance         | 37,177                           | 36,338            | 2 %          | 26 %               | 24 %         |
| Services            | 84,136                           | 84,211            | 0 %          | 59 %               | 55 %         |
| Hardware and other  | 3,057                            | 13,540            | -77 %        | 2 %                | 9 %          |
| Total revenue       | <u>\$ 142,351</u>                | <u>\$ 152,883</u> | <u>-7 %</u>  | <u>100 %</u>       | <u>100 %</u> |

**Software License Revenue.** Software license revenue decreased \$4.7 million, or 29%, in the third quarter of 2018 compared to the same quarter in the prior year. The decrease was influenced by 1) extended sales cycles and evaluations for some of our contracts, and 2) the business transition to cloud subscriptions, which resulted in traditional perpetual license deals closing as cloud deals based on customer demand. The license sales percentage mix across our product suite in the third quarter ended September 30, 2018 was approximately 80% warehouse management solutions and 20% non-warehouse management solutions.

**Cloud Subscription Revenue.** In 2017, we released Manhattan Active™ Solutions accelerating our business transition to cloud subscriptions. As a result, cloud subscriptions revenue increased \$3.9 million, or 155% in the third quarter of 2018 compared to the same quarter in the prior year, as customers began to purchase our SaaS offerings in lieu of a traditional perpetual license. Our customers increasingly prefer cloud-based solutions, including existing customers that are migrating from on-premise to cloud-based offerings. In the third quarter of 2018, the Americas, EMEA and APAC segments recognized \$5.7 million, \$0.7 million, and \$0.1 million in cloud subscriptions revenue, respectively.

**Maintenance Revenue.** Maintenance revenue increased \$0.8 million, or 2%, in the third quarter of 2018 compared to the same quarter in the prior year, primarily due to (1) an increase in first-year maintenance revenue; (2) our annual renewal rate of customers subscribing to maintenance, which was greater than 90%; and (3) increases in maintenance renewal prices. The Americas, EMEA and APAC segments increased \$0.5 million, \$0.2 million and \$0.1 million, respectively, in the third quarter of 2018 compared to the same quarter of 2017.

**Services revenue.** Services revenue was relatively flat, in the third quarter of 2018 compared to the same quarter in the prior year. Services revenue for the EMEA and Americas segments increased \$1.3 million and \$0.6 million, respectively, while services revenue for the APAC segment decreased \$1.9 million, in the third quarter of 2018 compared to the same quarter of 2017. The

increase in services revenue in the EMEA segment is primarily due to solid license deal activity in 2017 and customer-specific initiatives along with customer upgrade activity. The increase in the Americas segment is primarily due to customer-specific initiatives along with customer upgrade activity. The decline in services revenue in the APAC segment was primarily due to lower license revenue, some retail customers delaying project implementations and upgrades, combined with our Services teams operating at high efficiency improving the speed of implementations.

Service revenue includes reimbursements for professional service travel expenses that are required to be classified as revenue. Reimbursements by customers for out-of-pocket expenses were approximately \$4.4 million and \$5.0 million for the three months ended September 30, 2018 and 2017, respectively.

**Hardware Revenue.** Hardware sales decreased \$10.5 million to \$3.1 million in the third quarter of 2018 compared to \$13.6 million for the third quarter of 2017, primarily due to the adoption of the new revenue recognition standard (ASC 606). We adopted the new standard as of January 1, 2018 and elected to use the modified retrospective method. Historical hardware sales prior to the adoption of ASC 606 were recorded on a gross basis, as we were the principal in the transaction in accordance with the previous standard, ASC 605-45. Under the new standard, we are an agent in the transaction as we do not physically control the hardware which we sell. Accordingly, starting January 1, 2018, we recognize our hardware revenue net of related cost which reduces both hardware revenue and cost of sales as compared to our accounting prior to 2018. For comparison purposes only, had we implemented ASC 606 using the full retrospective method, we would have also presented hardware revenue net of cost for prior periods as shown below.

|   | <b>Three Months Ended September 30,</b> |                 |                                |
|---|---|-----------------|--------------------------------|
|   | <b>2018</b>                             | <b>2017</b>     | <b>% Change vs. Prior Year</b> |
| Hardware Revenue (Pre ASC 606 Adoption)       | \$ 10,575                               | \$ 13,540       | -22%                           |
| Cost of hardware                              | (7,518)                                 | (10,653)        | -29%                           |
| Hardware Revenue, net (Post ASC 606 Adoption) | <u>\$ 3,057</u>                         | <u>\$ 2,887</u> | <u>6%</u>                      |

Hardware sales are primarily derived from our Americas segment. Sales of hardware are largely dependent upon customer-specific desires, which fluctuates from period to period.

#### Cost of Revenue

|   | <b>Three Months Ended September 30,</b> |                  |                                |
|---|---|------------------|--------------------------------|
|   | <b>2018</b>                             | <b>2017</b>      | <b>% Change vs. Prior Year</b> |
| Cost of software license                              | \$ 1,211                                | \$ 1,316         | -8%                            |
| Cost of cloud subscriptions, maintenance and services | 59,975                                  | 51,103           | 17%                            |
| Cost of hardware                                      | -                                       | 10,653           | -100%                          |
| Total cost of revenue                                 | <u>\$ 61,186</u>                        | <u>\$ 63,072</u> | <u>-3%</u>                     |

**Cost of Software License.** Cost of software license consists of the costs associated with software reproduction; media, packaging and delivery; documentation, and other related costs; and royalties on third-party software sold with or as part of our products. Cost of software license was relatively flat in the third quarter of 2018 compared with the same quarter in 2017.

**Cost of Cloud Subscriptions, Maintenance and Services.** Costs of cloud subscriptions, maintenance and services consist primarily of salaries and other personnel-related expenses of employees dedicated to cloud subscriptions; maintenance services; and professional and technical services as well as hosting fees. The \$8.9 million, or 17%, increase in the quarter ended September 30, 2018 compared to the same quarter in the prior year was principally due to a \$3.3 million increase in performance-based compensation expense, a \$2.5 million increase in computer infrastructure costs related to cloud business transition, and a \$2.5 million increase in compensation and other personnel-related expenses resulting from increased headcount.

**Cost of Hardware.** As discussed above, we adopted the new revenue recognition standard as of January 1, 2018 and accordingly, now recognize hardware revenue net of related cost which reduces both hardware revenue and cost of sales as compared to our accounting prior to 2018. Had we presented the results of the third quarter of 2017 under ASC 606, cost of hardware would have been presented as zero as we would have recognized our hardware revenue net of those costs.

## Operating Expenses

|                               | Three Months Ended September 30, |                  |                            |
|-------------------------------|----------------------------------|------------------|----------------------------|
|                               | 2018                             | 2017             | % Change vs.<br>Prior Year |
|                               | (in thousands)                   |                  |                            |
| Research and development      | \$ 18,453                        | \$ 14,747        | 25 %                       |
| Sales and marketing           | 10,726                           | 10,739           | 0 %                        |
| General and administrative    | 13,711                           | 11,031           | 24 %                       |
| Depreciation and amortization | 2,179                            | 2,275            | -4 %                       |
| Restructuring charge          | -                                | (77)             | -100 %                     |
| Operating expenses            | <u>\$ 45,069</u>                 | <u>\$ 38,715</u> | <u>16 %</u>                |

**Research and Development.** R&D expenses primarily consist of salaries and other personnel-related costs for personnel involved in our R&D activities. R&D expenses for the quarter ended September 30, 2018 increased by \$3.7 million, or 25%, compared to the same quarter of 2017 principally due to a \$2.4 million increase in compensation and other personnel related expenses resulting from increased headcount to support R&D activities, and a \$1.1 million increase in performance-based compensation expense.

Our principal R&D activities have focused on the expansion and integration of new products and releases, while expanding the product footprint of our software solution suites in Supply Chain, Inventory Optimization and OmniChannel operations, including cloud-based solutions, point-of-sale and tablet retailing.

No R&D costs were capitalized during each of the quarters ended September 30, 2018 and 2017 as any capitalizable costs incurred following the technological feasibility stages for the related software product through the date of general release were insignificant.

**Sales and Marketing.** Sales and marketing expenses include salaries, commissions, travel and other personnel-related costs, as well as the costs of our marketing and alliance programs and related activities. Sales and marketing expenses for the quarter ended September 30, 2018 was relatively flat, compared to the same quarter in the prior year.

**General and administrative (G&A).** G&A expenses consist primarily of salaries and other personnel-related costs for our executives, personnel in the finance, human resources, information technology, and administrative departments, as well as facilities costs, legal fees, insurance costs, accounting fees, and other administrative expenses. G&A expenses increased \$2.7 million, or 24%, in the current year quarter compared to the same quarter in the prior year, primarily due to a \$1.6 million increase in compensation and other personnel related expenses and a \$0.6 million increase in performance-based compensation expense.

**Depreciation and Amortization.** Depreciation expense for the third quarter of 2018 and 2017 was \$2.1 million and \$2.2 million, respectively. Amortization expense associated with acquisitions for the three months ended September 30, 2018 and 2017 was immaterial.

**Restructuring Charge.** In connection with our restructuring initiatives in the third quarter of 2017, we recorded certain immaterial adjustments to our previous estimates that were recorded in the second quarter of 2017. These initiatives are discussed below in the nine-month comparison of results.



### Operating Income

Our operating income for the third quarter of 2018 was \$36.1 million compared to \$51.1 million for the third quarter of 2017. Operating margins were 25.4% for the third quarter of 2018 versus 33.4% for the same quarter in the prior year. Operating income and margin decreased primarily as a result of our cloud transition, lower license revenue, and annual salary and performance-based compensation increases.

### Other Income and Income Taxes

|                      | Three Months Ended September 30, |        |                            |
|----------------------|----------------------------------|--------|----------------------------|
|                      | 2018                             | 2017   | % Change vs.<br>Prior Year |
| Other income, net    | \$ 1,538                         | \$ 207 | 643%                       |
| Income tax provision | 9,179                            | 18,704 | -51%                       |

**Other income, net.** Other income, net principally includes interest income, foreign currency gains and losses, and other non-operating expenses. Other income, net increased \$1.3 million in the third quarter of 2018 compared to the same quarter of 2017 primarily due to an increase in foreign currency gains related to the fluctuation of the U.S. dollar relative to other foreign currencies, principally the Indian Rupee.

**Income tax provision.** Our effective income tax rates were 24.4% and 36.5% for the quarters ended September 30, 2018 and 2017, respectively, which was primarily due to the enactment of the Tax Cuts and Jobs Act in December 2017, which reduced the U.S. federal corporate income tax rate to 21% from 35%.

### Condensed Consolidated Financial Summary - First Nine Months of 2018

- Diluted earnings per share: \$1.18 for the nine months ended September 30, 2018 compared to \$1.32 for the nine months ended September 30, 2017.
- Consolidated revenue: \$414.8 million for the nine months ended September 30, 2018 compared to \$450.5 million for the nine months ended September 30, 2017.
- Software license revenue: \$32.1 million for the nine months ended September 30, 2018, compared to \$57.6 million for the nine months ended September 30, 2017.
- Cloud subscription revenue: \$16.3 million for the nine months ended September 30, 2018, compared to \$6.4 million in the nine months ended September 30, 2017.
- Operating income: \$99.6 million for the nine months ended September 30, 2018, compared to \$142.1 million for the nine months ended September 30, 2017.
- Cash flow from operations: \$103.3 million in the nine months ended September 30, 2018, compared to \$116.6 million in the nine months ended September 30, 2017.
- Cash and investments: \$93.9 million at September 30, 2018, compared to \$125.5 million at December 31, 2017.
- Share repurchases: During the nine months ended September 30, 2018, we reduced our common shares outstanding by approximately 3.5% primarily through the repurchase of approximately 2.6 million shares of our common stock, under the share repurchase program authorized by our board of directors, for a total investment of \$118.5 million.

Below we discuss the results of our consolidated operations for the nine months ended September 30, 2018 and 2017.

|                     | Nine Months Ended September 30, |                   |              |                    |              |
|---------------------|---------------------------------|-------------------|--------------|--------------------|--------------|
|                     | 2018                            | 2017              | % Change vs. | % of Total Revenue |              |
|                     | (in thousands)                  |                   | Prior Year   | 2018               | 2017         |
| Software license    | \$ 32,054                       | \$ 57,601         | -44 %        | 7 %                | 13 %         |
| Cloud subscriptions | 16,301                          | 6,408             | 154 %        | 4 %                | 1 %          |
| Maintenance         | 110,567                         | 105,673           | 5 %          | 27 %               | 24 %         |
| Services            | 245,160                         | 249,319           | -2 %         | 59 %               | 55 %         |
| Hardware and other  | 10,709                          | 31,512            | -66 %        | 3 %                | 7 %          |
| Total revenue       | <u>\$ 414,791</u>               | <u>\$ 450,513</u> | <u>-8 %</u>  | <u>100 %</u>       | <u>100 %</u> |

**Software License Revenue.** Software license revenue decreased \$25.5 million, or 44%, in the nine months ended September 30, 2018 over the same period in the prior year. The decrease was influenced by (1) extended sales cycles and evaluations for some of our contracts, and (2) our business transition to cloud subscriptions, which resulted in traditional perpetual license deals closing as cloud deals based on customer demand. The license sales percentage mix across our product suite in the nine months ended September 30, 2018 was approximately 80% warehouse management solutions and 20% non-warehouse management solutions.

**Cloud Subscription Revenue.** Due to the release of Manhattan Active™ Solutions, that was discussed earlier, cloud subscriptions revenue increased \$9.9 million, or 154% in the nine months ended September 30, 2018 compared to the same period in the prior year, as customers began to purchase our SaaS offerings in lieu of a traditional perpetual license. During the nine months ended September 30, 2018, the Americas, EMEA and APAC segments recognized \$14.6 million, \$1.4 million and \$0.2 million in cloud subscriptions revenue, respectively.

**Maintenance Revenue.** Maintenance revenue increased \$4.9 million, or 5%, in the nine months ended September 30, 2018 compared to the same period in the prior year, primarily due to (1) an increase in first-year maintenance revenue; (2) our annual renewal rate of customers subscribing to maintenance, which was greater than 90%; and (3) increases in the maintenance renewal prices. Maintenance revenue for the Americas and EMEA segment each increased \$2.1 million while the APAC segment increased \$0.7 million, in the nine months ended September 30, 2018 compared to the same period in 2017.

**Services revenue.** Services revenue decreased \$4.2 million, or 2%, in the nine months ended September 30, 2018 compared to the same period in the prior year. Services revenue for the Americas and APAC segments decreased \$3.5 million and \$4.9 million in the nine months ended September 30, 2018, respectively, compared with the nine months ended September 30, 2017, and increased \$4.2 million in our EMEA segment. The decline in services revenue in the Americas and APAC segments was primarily due to lower license revenue for the Americas segment, some retail customers delaying project implementations and upgrades, combined with our Services teams operating at high efficiency, thereby improving the speed of implementations. The increase in services revenue in the EMEA segment is primarily due to solid license deal activity in 2017 and customer-specific initiatives in conjunction with customer upgrade activity.

As discussed earlier, service revenue includes reimbursements for professional service travel expenses that are required to be classified as revenue. Reimbursements by customers for out-of-pocket expenses were approximately \$12.1 million and \$13.8 million for the nine months ended September 30, 2018 and 2017, respectively.

**Hardware Revenue.** Hardware sales decreased \$20.8 million, or 66%, to \$10.7 million in the nine months ended September 30, 2018 compared to \$31.5 million for the same period in the prior year, primarily due to the new revenue recognition standard (ASC 606) adoption. We adopted the new standard as of January 1, 2018 and elected to use the modified retrospective method. Historical hardware sales prior to the adoption of ASC 606 were recorded on a gross basis, as we were the principal in the transaction in accordance with the previous standard, ASC 605-45. Under the new standard, we are an agent in the transaction as we do not physically control the hardware which we sell. Accordingly, starting January 1, 2018, we recognize our hardware revenue net of related cost which reduces both hardware revenue and cost of sales as compared to our accounting prior to 2018. For comparison purposes only, had we implemented ASC 606 using the full retrospective method, we would also have presented hardware revenue net of costs for the prior period as shown below.

|   | Nine Months Ended September 30, |                 |                            |
|---|---------------------------------|-----------------|----------------------------|
|   | 2018                            | 2017            | % Change vs.<br>Prior Year |
| Hardware Revenue (Pre ASC 606 Adoption)       | \$ 38,051                       | \$ 31,512       | 21%                        |
| Cost of hardware                              | (27,342)                        | (23,789)        | 15%                        |
| Hardware Revenue, net (Post ASC 606 Adoption) | <u>\$ 10,709</u>                | <u>\$ 7,723</u> | <u>39%</u>                 |

#### Cost of Revenue

|   | Nine Months Ended September 30, |                   |                            |
|---|---------------------------------|-------------------|----------------------------|
|   | 2018                            | 2017              | % Change vs.<br>Prior Year |
| Cost of software license                              | \$ 4,615                        | \$ 4,106          | 12%                        |
| Cost of cloud subscriptions, maintenance and services | 173,446                         | 159,111           | 9%                         |
| Cost of hardware                                      | -                               | 23,789            | -100%                      |
| Total cost of revenue                                 | <u>\$ 178,061</u>               | <u>\$ 187,006</u> | <u>-5%</u>                 |

**Cost of Software License.** Cost of software license increased by \$0.5 million, or 12%, in the nine months ended September 30, 2018 compared to the same period in the prior year principally as a result of an increase in third-party software expenses due to increased sales of third-party software.

**Cost of Cloud Subscriptions, Maintenance and Services.** The \$14.3 million, or 9%, increase in the nine months ended September 30, 2018 compared to the same period in the prior year was principally due to a \$6.8 million increase in performance-based compensation expense, a \$6.1 million increase in computer infrastructure costs related to cloud business transition and a \$1.6 million increase in compensation and other personnel-related expenses, partially offset by a \$0.6 million decrease in travel-related expenses.

**Cost of Hardware.** As discussed above, we adopted the new revenue recognition standard as of January 1, 2018. As a result, we now recognize our hardware revenue net of related cost which reduces both hardware revenue and cost of sales as compared to our accounting prior to 2018. Had we presented the results of the nine months ended September 30, 2017 under ASC 606, cost of hardware would have been presented as zero as we would have recognized our hardware revenue net of related costs.

#### Operating Expenses

|                               | Nine Months Ended September 30, |                   |                            |
|-------------------------------|---------------------------------|-------------------|----------------------------|
|                               | 2018                            | 2017              | % Change vs.<br>Prior Year |
|                               | (in thousands)                  |                   |                            |
| Research and development      | \$ 53,688                       | \$ 43,074         | 25%                        |
| Sales and marketing           | 37,419                          | 34,260            | 9%                         |
| General and administrative    | 39,396                          | 34,290            | 15%                        |
| Depreciation and amortization | 6,616                           | 6,863             | -4%                        |
| Restructuring charge          | -                               | 2,945             | -100%                      |
| Operating expenses            | <u>\$ 137,119</u>               | <u>\$ 121,432</u> | <u>13%</u>                 |

**Research and Development.** R&D expenses for the nine months ended September 30, 2018 increased by \$10.6 million, or 25%, compared to the same period in 2017. The increase is primarily attributable to a \$7.1 million increase in compensation and other-personnel-related expenses resulting from increased headcount to support R&D activities, a \$2.5 million increase in performance-based compensation expense, and a \$0.5 million increase in computer costs. For the same reasons included in the quarterly R&D discussion above, no R&D costs were capitalized during the nine months ended September 30, 2018 and 2017.

**Sales and Marketing.** Sales and marketing expenses increased by \$3.2 million, or 9%, in the nine months ended September 30, 2018 compared to the same period of the prior year due primarily to increased marketing and campaign programs.

**General and Administrative (G&A).** G&A expenses increased by \$5.1 million, or 15%, during the nine months ended September 30, 2018 compared to the same period in the prior year. The increase was primarily due to a \$3.0 million increase in compensation and other personnel-related expenses and a \$1.6 million increase in performance-based compensation expense.

**Depreciation and Amortization.** Depreciation expense amounted to \$6.3 million and \$6.5 million for the nine months ended September 30, 2018 and 2017, respectively. Amortization expense associated with acquisitions for the nine months ended September 30, 2018 and 2017 was immaterial.

**Restructuring Charge.** In May 2017, we eliminated 100 positions due to retail sector headwinds, aligning services capacity with demand and recorded a restructuring charge of approximately \$2.9 million pretax (\$1.9 million after-tax or \$0.03 per fully diluted share) during the nine months ended September 30, 2017. The charge primarily consisted of employee severance, employee transition cost and outplacement services and is classified in “Restructuring charge” in our Consolidated Statements of Income.

### Operating Income

Operating income for the nine months ended September 30, 2018 was \$99.6 million compared to \$142.1 million for the same period in the prior year. Operating margins were 24.0% for the first nine months of 2018 versus 31.5% for the same period in 2017. Operating income and margin decreased primarily due to our cloud transition, lower license revenue, increased overall compensation and other personnel-related expenses.

### Other Income and Income Taxes

|                          | <u>Nine Months Ended September 30,</u> |             |                                    |
|--------------------------|--|-------------|------------------------------------|
|                          | <u>2018</u>                            | <u>2017</u> | <u>% Change vs.<br/>Prior Year</u> |
| Other income (loss), net | \$ 3,245                               | \$ (232)    | -1499%                             |
| Income tax provision     | 24,081                                 | 49,876      | -52%                               |

**Other income, net.** Other income, net increased \$3.5 million in the nine months ended September 30, 2018 compared to the same period in 2017 primarily due to foreign currency gains resulting from the fluctuation of the U.S. dollar relative to foreign currencies, principally the Indian Rupee.

**Income tax provision.** Our effective income tax rate was 23.4% and 35.2% for the nine months ended September 30, 2018 and 2017, respectively. Such decrease was primarily due to the enactment of the Tax Cuts and Jobs Act in December 2017 that reduced the U.S. federal corporate income tax rate to 21% from 35%, partially offset by a decrease of \$1.1 million in excess tax benefits on restricted stock vesting.

### Liquidity and Capital Resources

In the first nine months of 2018, we funded our business through cash generated from operations. Our cash and cash equivalents as of September 30, 2018 included \$47.3 million held in the U.S. and \$46.6 million held by our foreign subsidiaries. We believe that the U.S. cash balances are sufficient to fund our U.S. operations, and we have no immediate plans to repatriate foreign funds to the U.S. If, in the future, we elect to repatriate the unremitted earnings of our foreign subsidiaries, we would no longer be subject to additional U.S. income taxes on such earnings due to the enactment of the Tax Cuts and Jobs Act, but we could be subject to additional local withholding taxes.

For the nine months ended September 30, 2018 and 2017, our operating activities generated cash of approximately \$103.3 million and \$116.6 million, respectively. Typical factors affecting our cash from operating activities from period to period include our level of revenue and earnings, the timing and amount of employee bonus and income tax payments, and the timing of cash collections from our customers which is our primary source of operating cash. Cash provided by operating activities for the nine months ended September 30, 2018 decreased \$13.3 million compared to the same period in 2017, which is primarily attributable to lower revenues and net earnings.

Our investing activities for both the nine months ended September 30, 2018 and 2017 consisted of investment purchases and capital spending. For the nine months ended September 30, 2018, we used \$10.7 million in investing activities, of which \$5.5 million was used for capital expenditure to support company growth while the remainder was used in for net-purchases of short-term

investments. For the nine months ended September 30, 2017, we used \$8.4 million in investing activities, of which \$4.5 million was used in net purchases of short-term investments while the remainder was used for capital spending.

Cash used in financing activities was \$124.6 million and \$81.7 million for the nine months ended September 30, 2018 and 2017, respectively. The amounts in both periods were used to purchase our common stock, including shares withheld for taxes which were due upon the vesting of restricted stock units. Shares withheld for taxes was \$6.0 million and \$6.7 million for the nine months ended September 30, 2018 and 2017, respectively.

Periodically, opportunities may arise to grow our business through the acquisition of complementary products, and technologies. Any material acquisition could result in a decrease to our working capital depending on the amount, timing, and nature of the purchase consideration. We believe that our existing cash and investments will be sufficient to meet our working capital and capital expenditure needs at least for the next twelve months, although there can be no assurance that this will be the case. For the remainder of 2018, we anticipate that our priorities for use of cash will be similar to prior years, with our first priority being continued investment in product development and profitably and growing our business to extend our market leadership. We will continue to evaluate acquisition opportunities that are complementary to our product footprint and technology direction. We will also continue to weigh our share repurchase options against cash for acquisitions and investing in the business. At this time, we do not anticipate any borrowing requirements for the remainder of 2018 for general corporate purposes.

### **Critical Accounting Policies and Estimates**

In the first nine months of 2018, there were no significant changes to our critical accounting policies and estimates from those disclosed in the section “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our annual report on Form 10-K for the year ended December 31, 2017 other than the adoption of the new revenue recognition standard (ASC 606).

### **Revenue Recognition**

We recognize revenue when we transfer control of the promised products or services to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those products or services. We derive our revenue from software licenses, cloud subscriptions, customer support services and software enhancements (“maintenance”), implementation and training services, and sales of hardware. We exclude sales and usage-based taxes from revenue.

#### *Nature of Products and Services*

Our perpetual software licenses provide the customer with a right to use the software as it exists at the time of purchase. We recognize revenue for distinct software licenses once the license period has begun and we have made the software available to the customer.

Cloud subscriptions includes software as a service (“SaaS”) and arrangements which provide customers with the right to use our software within a cloud-based environment that we provide and manage where the customer does not have the right to take possession of the software without significant penalty. SaaS and hosting revenues are recognized ratably over the contract period. For contracts that include a perpetual license and hosting services, we generally consider the arrangement as an overall service, recognized over the initial hosting term. The software license fee typically due at the outset of the arrangement is not payable again if the customer renews the hosting services, so that the customer’s option to renew the hosting services is a material right, the revenue from which, if the option is exercised, we will recognize over the applicable renewal period.

Our perpetual software licenses are typically sold with maintenance under which we provide a comprehensive 24 hours per day, 365 days per year program that provides customers with software upgrades, when and if available, which include additional or improved functionality and technological advances incorporating emerging supply chain and industry initiatives. Revenue related to maintenance is generally paid in advance and recognized ratably over the term of the agreement, typically twelve months.

Our services revenue consists of fees generated from implementation and training services, including reimbursements of out-of-pocket expenses in connection with our services. Services include system planning, design, configuration, testing, and other software implementation support, and are typically optional and distinct from our software. Fees for our services are separately priced and are generally billed on an hourly basis, and revenue is recognized over time as the services are performed. In certain situations, we render professional services under agreements based upon a fixed fee for portions of or all of the engagement. Revenue related to fixed-fee-based services contracts is recognized over time based on the proportion performed.

As part of a complete solution, our customers periodically purchase hardware products developed and manufactured by third parties from us for use with the software licenses purchased from us. These products include computer hardware, radio frequency terminal networks, radio frequency identification (RFID) chip readers, bar code printers and scanners, and other peripherals. As we do not physically control the hardware which we sell, we are acting as an agent in the transaction and recognize our hardware revenue net of the related costs. We recognize hardware revenue when control is transferred to the customer upon shipment.

### *Significant Judgements*

Our contracts with customers typically contain promises to transfer multiple products and services to a customer. Judgement is required to determine whether each product and service is considered to be a distinct performance obligation that should be accounted for separately under the contract. We allocate the transaction price to the distinct performance obligations based on relative standalone selling price (“SSP”). We estimate SSP based on the prices charged to customers, or by using information such as market conditions and other observable inputs. However, the selling price of our software licenses is highly variable. Thus, we estimate SSP for software licenses using the residual approach, determined based on total transaction price less the SSP of other goods and services promised in the contract.

### *Contract Balances*

Timing of invoicing to customers may differ from timing of revenue recognition. Payment terms for our software licenses vary. We have an established history of collecting under the terms of our software license contracts without providing refunds or concessions to our customers. Cloud subscriptions and maintenance are typically billed annually in advance. Services are typically billed monthly as performed. In instances where the timing of revenue recognition differs from the timing of invoicing, we have determined that our contracts generally do not include a significant financing component. The primary purpose of our invoicing terms is to provide customers with predictable ways to purchase our software and services, not to provide or receive financing. Additionally, we are applying the practical expedient to exclude from consideration any contracts with payment terms of one year or less as we rarely offer terms extending beyond one year.

Deferred revenue mainly represents amounts collected prior to having completed performance of maintenance, cloud subscriptions and professional services.

### **Forward-Looking Statements**

Certain statements contained in this filing are “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, including but not limited to statements related to expectations about global macroeconomic trends and industry developments, plans for future business development activities, anticipated costs of revenues, product mix and service revenues, research and development and selling, general and administrative activities, and liquidity and capital needs and resources. When used in this quarterly report, the words “may,” “expect,” “forecast,” “anticipate,” “intend,” “plan,” “believe,” “could,” “seek,” “project,” “estimate,” and similar expressions are generally intended to identify forward-looking statements. Undue reliance should not be placed on these forward-looking statements, which reflect opinions only as of the date of this quarterly report. Such forward-looking statements are subject to risks, uncertainties, and other factors that could cause actual results to differ materially from future results expressed or implied by such forward-looking statements. Investors are cautioned that forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements.

Some of the factors that could cause actual results to differ materially from the results discussed in forward-looking statements include:

- The operational and financial effects of our business transition to cloud subscription-based solutions;
- economic, political and market conditions, including disruption in the retail sector;
- our ability to attract and retain highly skilled employees;
- competition;
- our dependence on a single line of business;
- our dependence on generating revenue from software licenses and cloud subscriptions to drive business;
- undetected errors or “bugs” in our software;
- the risk of defects, delays or interruptions in our cloud subscription services;
- possible compromises of our data protection and IT security measures;
- risks associated with large system implementations;
- the requirement to maintain high quality professional service capabilities;
- the risks of international operations, including foreign currency exchange risk;
- the possibility that research and development investments may not yield sufficient returns;
- the long sales cycle associated with our products;

- the difficulty of predicting operating results;
- the need to continually improve our technology;
- risks associated with managing growth;
- reliance on third party and open source software;
- the need for our products to interoperate with other systems;
- the need to protect our intellectual property, and our exposure to intellectual property claims of others;
- economic conditions and regulatory changes caused by the United Kingdom's likely exit from the European Union;
- the possible effects on international commerce of new or increased tariffs, or a 'trade war'; and
- other risks described under the heading "Risk Factors" in this Form 10-Q and in our Annual Report on Form 10-K for the year ended December 31, 2017, as these may be updated from time to time in subsequent quarterly reports.

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

There were no material changes to the Quantitative and Qualitative Disclosures about Market Risk previously disclosed in our annual report on Form 10-K for the year ended December 31, 2017.

### **Item 4. Controls and Procedures.**

#### **Disclosure Controls and Procedures**

We maintain disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

No system of controls, no matter how well designed and operated, can provide absolute assurance that the objectives of the system of controls are met, and no evaluation of controls can provide absolute assurance that the system of controls has operated effectively in all cases. Our disclosure controls and procedures however are designed to provide reasonable assurance that the objectives of disclosure controls and procedures are met.

As of the end of the period covered by this report, our management evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures. Based on the evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective to provide reasonable assurance that the objectives of disclosure controls and procedures are met.

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

During the three months ended September 30, 2018, there were no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting, including any corrective actions with regard to material weaknesses.

## **PART II OTHER INFORMATION**

### **Item 1. Legal Proceedings.**

From time to time, we may be a party to legal proceedings arising in the ordinary course of business, and we could be a party to legal proceedings not in the ordinary course of business. We are not currently a party to any legal proceeding the result of which we believe could have a material adverse impact upon our business, financial position, results of operations, or cash flows.

Many of our product installations involve software products that are critical to the operations of our customers' businesses. Any failure in our products could result in a claim for substantial damages against us, regardless of our responsibility for such failure. Although we attempt to contractually limit our liability for damages arising from product failures or negligent acts or omissions, there can be no assurance that the limitations of liability set forth in our contracts will be enforceable in all instances.

## Item 1A.Risk Factors.

In addition to the other information set forth in this report, you should carefully consider the risk factors disclosed in Item 1A, “Risk Factors,” of our annual report on Form 10-K for the year ended December 31, 2017, supplemented in our quarterly report on Form 10-Q for the quarter ended June 30, 2018.

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

The following table provides information regarding common stock purchases under our publicly-announced repurchase program for the quarter ended September 30, 2018.

| Period                           | Total Number of Shares Purchased | Average Price Paid per Share | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs |
|----------------------------------|----------------------------------|------------------------------|--|--|
| July 1 - July 31, 2018           | -                                | \$ -                         | -  | 50,000,000   |
| August 1 - August 31, 2018       | 298,065                          | 51.85                        | 298,065  | 34,545,735   |
| September 1 - September 30, 2018 | 90,497                           | 57.62                        | 90,497   | 29,331,043   |
| Total                            | <u>388,562</u>                   |                              | <u>388,562</u>   |  |

In October 2018, our Board of Directors confirmed our existing authority to repurchase up to an aggregate of \$50.0 million of our outstanding common stock.

## Item 3.Defaults Upon Senior Securities.

No events occurred during the quarter covered by this report that would require a response to this item.

## Item 4.Mine Safety Disclosures.

Not applicable.

## Item 5.Other Information.

### *Bylaw Amendments*

On October 25, 2018, the Board of Directors of the Company amended the Company’s Amended Bylaws. The amendment establishes the requisite quorum for Board committee meetings as a majority of the committee members, provides for committee self-selection of a meeting chair if the Board has not designated a chair or the normal chair is absent, and provides that Board committees otherwise shall conduct meetings in accordance with the procedures established for Board meetings.

### *Executive Employment Agreements*

On October 25, 2018, Manhattan Associates, Inc. (the “Company”) entered into executive employment agreements (the “Executive Agreements”), in substantially the form filed as Exhibit 10.1, with each of the named executive officers of the Company, which includes the Company’s (i) President and Chief Executive Officer, Eddie Capel; (ii) Executive Vice President, Chief Financial Officer and Treasurer, Dennis B. Story; (iii) Senior Vice President, Americas, Robert G. Howell Jr., (iv) Senior Vice President, Chief Legal Officer and Secretary, Bruce S. Richards, and Senior Vice President, Global Corporate Controller and Chief Accounting Officer, Linda C. Pinne. The Executive Agreements replace the executive employment agreements previously in effect with each of the named executive officers. The Executive Agreements were approved by the Compensation Committee of the Board of Directors. In considering the Executive Agreements, the Compensation Committee was advised by an independent compensation consultant and outside legal counsel.

The Executive Agreements provide that each executive will be: (i) paid an annual base salary; (ii) eligible for an annual performance-related bonus; (iii) eligible for equity awards that reflect the executive’s position, duties, and responsibilities with the



Company; (iv) eligible to participate in all other benefit plans, programs, and arrangements generally available to executives of the Company; (v) provided an indemnification agreement, under which the Company will indemnify the executive to the full extent permitted by law with respect to any claim arising out of the executive's service as an officer, director, or employee of the Company; and (vi) covered by a director and officer liability insurance policy. As set forth in their respective Executive Agreements, the annual base salaries of Messrs. Capel, Story, Howell and Richards are, as of the present time, set at \$575,000, \$402,000, \$323,000 and \$320,000, respectively and that of Ms. Pinne is set at \$252,150. Each executive's annual base salary is subject to increases at the discretion of the Board or the Compensation Committee.

The executives' employment under the Executive Agreements can be terminated at any time by the Company or by the applicable executive. If the Company terminates the executive's employment for reasons other than death, disability, or "cause" (as defined in the Executive Agreements) or if the executive terminates their employment for "constructive termination" (as defined in the Executive Agreements), the executive will be entitled to severance payments equal to continuation of their base salary for 12 months and 12 months of COBRA coverage for family medical and dental benefits. In addition, if the executive's termination under the circumstances described in the preceding sentence occurs on or within 24 months following a "change of control" (as defined in the Executive Agreements), the executive will be entitled to (i) a pro rata bonus for the year of termination; and (ii) an additional bonus amount equal to the greater of their target bonus for the year of termination or for the prior year. If a change of control occurs, any unvested equity awards outstanding at the time of the change in control will remain in effect in accordance with their terms (or the Company may provide the executive with substantially equivalent substitute equity awards of the survivor or purchasing entity or its parent). If on or within 24 months following a change of control, the Company (or its successor) terminates the executive without cause or the executive suffers a "constructive termination" (as defined in the Executive Agreements), then any outstanding unvested equity awards (or the substituted equity awards) will fully vest. In general, severance payments to an executive are limited such that they will not receive any "parachute payment" as described in Section 280G of the Internal Revenue Code of 1986, as amended. The executive is required to provide the Company with a general release of all claims in order to receive any severance payments or benefits.

The Executive Agreements contain provisions requiring the executive to protect the proprietary and confidential information of the Company. In addition, through the twelve-month anniversary date of the executive's termination of employment (or, if later, the last date any severance payments are due), the executive agrees not to (i) solicit or accept business from the Company's customers or customer prospects, with whom they had material contact, for the purpose of performing a competing business, (ii) solicit or hire away the Company's employees, (iii) perform, or supervise, manage, or provide consulting or advice regarding the performance of, duties the same as or similar to those performed by the executive for the Company during the 24 months prior to termination, for a competing business owned by any of a designated group of companies, or (iv) serve on the board of directors (or similar oversight body) for any of those same designated companies. The executive also agrees to assign to the Company all patents, inventions, copyrights and other intellectual property developed by them in the course of their employment.

This summary of the terms and conditions of the Executive Agreements is qualified in its entirety by reference to the full text of the form of Executive Agreement, which is filed herewith as Exhibit 10.1, and incorporated by reference herein.

\* \* \* \* \*

The above summaries of the amendment to the Company's Amended Bylaws and of terms and conditions of the Executive Agreements are qualified in their entirety by reference to the full text of the Amended Bylaws and form of Executive Agreement, which are filed as Exhibits 3.2 and 10.1, respectively, and incorporated by reference.

#### **Item 6.Exhibits.**

|              |  |
|--------------|--|
| Exhibit 3.2  | <a href="#"><u>Amended Bylaws, as amended October 25, 2018</u></a>   |
| Exhibit 10.1 | <a href="#"><u>Form of Executive Employment Agreement</u></a>  |
| Exhibit 31.1 | <a href="#"><u>Certification of Principal Executive Officer pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>                       |
| Exhibit 31.2 | <a href="#"><u>Certification of Principal Financial Officer pursuant to Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>                       |
| Exhibit 32*  | <a href="#"><u>Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u></a> |

|                 |   |
|-----------------|---|
| Exhibit 101.INS | XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document. |
| Exhibit 101.SCH | XBRL Taxonomy Extension Schema Document   |
| Exhibit 101.CAL | XBRL Taxonomy Extension Calculation Linkbase Document   |
| Exhibit 101.DEF | XBRL Taxonomy Extension Definition Linkbase Document  |
| Exhibit 101.LAB | XBRL Taxonomy Extension Label Linkbase Document   |
| Exhibit 101.PRE | XBRL Taxonomy Extension Presentation Linkbase Document  |

\* In accordance with Item 601(b)(32)(ii) of the SEC's Regulation S-K, this Exhibit is hereby furnished to the SEC as an accompanying document and is not deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933.

## EXHIBIT INDEX

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**SIGNATURES**

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

**MANHATTAN ASSOCIATES, INC.**

Date: October 25, 2018

/s/ Eddie Capel

*Eddie Capel*

President and Chief Executive Officer  
(Principal Executive Officer)

Date: October 25, 2018

/s/ Dennis B. Story

*Dennis B. Story*

Executive Vice President, Chief Financial Officer and Treasurer  
(Principal Financial Officer)

**AMENDED BYLAWS  
OF  
MANHATTAN ASSOCIATES, INC.  
(AS AMENDED EFFECTIVE OCTOBER 25, 2018)**

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**AMENDED BYLAWS  
OF  
MANHATTAN ASSOCIATES, INC.**

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**AMENDED BYLAWS  
OF  
MANHATTAN ASSOCIATES, INC.**

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References in these Amended Bylaws of MANHATTAN ASSOCIATES, INC., a Georgia corporation (the “Corporation”) (these “Bylaws”) to “Articles of Incorporation” are to the Articles of Incorporation of the Corporation as amended and restated from time to time.

All of these Bylaws are subject to contrary provisions, if any, of the Articles of Incorporation (including provisions designating the preferences, limitations, and relative rights of any class or series of shares), the Georgia Business Corporation Code (the “Code”), and other applicable law, as in effect on and after the effective date of these Bylaws. References in these Bylaws to “Sections” shall refer to sections of the Bylaws, unless otherwise indicated.

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**ARTICLE ONE  
OFFICE**

**1.1REGISTERED OFFICE AND AGENT.** The Corporation shall maintain a registered office and shall have a registered agent whose business office is the same as the registered office.

**1.2PRINCIPAL OFFICE.** The principal office of the Corporation shall be at the place designated in the Corporation’s annual registration with the Georgia Secretary of State.

**1.3OTHER OFFICES.** In addition to its registered office and principal office, the Corporation may have offices at other locations either in or outside the State of Georgia.

**ARTICLE TWO  
SHAREHOLDERS’ MEETINGS**

**2.1PLACE OF MEETINGS.** Meetings of the Corporation’s shareholders may be held at any location inside or outside the State of Georgia designated by the Board of Directors or any other person or persons who properly call the meeting, or if the Board of Directors or such other person or persons do not specify a location, at the Corporation’s principal office.

**2.2ANNUAL MEETINGS.** The Corporation shall hold an annual meeting of shareholders, at a time determined by the Board of Directors, to elect directors and to transact any business that properly may come before the meeting. The annual meeting may be combined with any other meeting of shareholders, whether annual or special.

**2.3SPECIAL MEETINGS.** Special meetings of shareholders of one or more classes or series of the Corporation’s shares may be called at any time by the Board of Directors, the

Chairman of the Board, the Chief Executive Officer or the President, and shall be called by the Corporation upon the written request (in compliance with applicable requirements of the Code) of the holders of shares representing not less than 35% or more of the votes entitled to be cast on each issue proposed to be considered at the special meeting. The business that may be transacted at any special meeting of shareholders shall be limited to that proposed in the notice of the special meeting given in accordance with Section 2.4 (including related or incidental matters that may be necessary or appropriate to effectuate the proposed business).

**2.4NOTICE OF MEETINGS.** In accordance with Section 9.5 and subject to waiver by a shareholder pursuant to Section 2.5, the Corporation shall give written notice of the date, time, and place of each annual and special shareholders' meeting no fewer than 10 days nor more than 60 days before the meeting date to each shareholder of record entitled to vote at the meeting. The notice of an annual meeting need not state the purpose of the meeting unless these Bylaws require otherwise. The notice of a special meeting shall state the purpose for which the meeting is called. If an annual or special shareholders' meeting is adjourned to a different date, time, or location, the Corporation shall give shareholders notice of the new date, time, or location of the adjourned meeting, unless a quorum of shareholders was present at the meeting and information regarding the adjournment was announced before the meeting was adjourned; provided, however, that if a new record date is or must be fixed in accordance with Section 7.6, the Corporation must give notice of the adjourned meeting to all shareholders of record as of the new record date who are entitled to vote at the adjourned meeting.

**2.5WAIVER OF NOTICE.** A shareholder may waive any notice required by the Code, the Articles of Incorporation, or these Bylaws, before or after the date and time of the matter to which the notice relates, by delivering to the Corporation a written waiver of notice signed by the shareholder entitled to the notice. In addition, a shareholder's attendance at a meeting shall be (a) a waiver of objection to lack of notice or defective notice of the meeting unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting, and (b) a waiver of objection to consideration of a particular matter at the meeting that is not within the purpose stated in the meeting notice, unless the shareholder objects to considering the matter when it is presented. Except as otherwise required by the Code, neither the purpose of nor the business transacted at the meeting need be specified in any waiver.

**2.6VOTING GROUP; QUORUM; VOTE REQUIRED TO ACT.** (a) Unless otherwise required by the Code or the Articles of Incorporation, all classes or series of the Corporation's shares entitled to vote generally on a matter shall for that purpose be considered a single voting group (a "Voting Group"). If either the Articles of Incorporation or the Code requires separate voting by two or more Voting Groups on a matter, action on that matter is taken only when voted upon by each such Voting Group separately. At all meetings of shareholders, any Voting Group entitled to vote on a matter may take action on the matter only if a quorum of that Voting Group exists at the meeting, and if a quorum exists, the Voting Group may take action on the matter notwithstanding the absence of a quorum of any other Voting Group that may be entitled to vote separately on the matter. Unless the Articles of Incorporation, these Bylaws, or the Code provides otherwise, the presence (in person or by proxy) of shares representing a majority of votes entitled to be cast on a matter by a Voting Group shall constitute a quorum of that Voting Group with regard to that matter. Once a share is present at any meeting other than solely to object to holding the meeting or transacting business at the meeting, the share shall be deemed present for

quorum purposes for the remainder of the meeting and for any adjournments of that meeting, unless a new record date for the adjourned meeting is or must be set pursuant to Section 7.6 of these Bylaws.

(b) Except as provided in Section 3.4, if a quorum exists, action on a matter by a Voting Group is approved by that Voting Group if the votes cast within the Voting Group favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation, a provision of these Bylaws that has been adopted pursuant to Section 14-2-1021 of the Code (or any successor provision), or the Code requires a greater number of affirmative votes.

**2.7 VOTING OF SHARES.** Unless otherwise required by the Code or the Articles of Incorporation, each outstanding share of any class or series having voting rights shall be entitled to one vote on each matter that is submitted to a vote of shareholders.

**2.8 PROXIES.** A shareholder entitled to vote on a matter may vote in person or by proxy pursuant to an appointment executed in writing by the shareholder or by his or her attorney-in-fact. An appointment of a proxy shall be valid for 11 months from the date of its execution, unless a longer or shorter period is expressly stated in the appointment form.

**2.9 PRESIDING OFFICIAL.** Except as otherwise provided in this Section 2.9, the Chairman of the Board, and in his or her absence or disability the Chief Executive Officer, and in his or her absence or disability the President, shall preside at every shareholders' meeting (and any adjournment thereof) as its chairman, if either of them is present and willing to serve. If neither the Chairman of the Board, nor the Chief Executive Officer nor the President is present and willing to serve as chairman of the meeting, and if the Chairman of the Board has not designated another person who is present and willing to serve, then a majority of the Corporation's directors present at the meeting shall be entitled to designate a person to serve as chairman. If no director of the Corporation is present at the meeting or if a majority of the directors who are present cannot be established, then a chairman of the meeting shall be selected by a majority vote of (a) the shares present at the meeting that would be entitled to vote in an election of directors, or (b) if no such shares are present at the meeting, then the shares present at the meeting comprising the Voting Group with the largest number of shares present at the meeting and entitled to vote on a matter properly proposed to be considered at the meeting. The chairman of the meeting may designate other persons to assist with the meeting.

**2.10 ADJOURNMENTS.** At any meeting of shareholders (including an adjourned meeting), a majority of shares of any Voting Group present and entitled to vote at the meeting (whether or not those shares constitute a quorum) may adjourn the meeting, but only with respect to that Voting Group, to reconvene at a specific time and place. If more than one Voting Group is present and entitled to vote on a matter at the meeting, then the meeting may be continued with respect to any such Voting Group that does not vote to adjourn as provided above, and such Voting Group may proceed to vote on any matter to which it is otherwise entitled to do so; provided, however, that if (a) more than one Voting Group is required to take action on a matter at the meeting and (b) any one of those Voting Groups votes to adjourn the meeting (in accordance with the preceding sentence), then the action shall not be deemed to have been taken until the requisite vote of any adjourned Voting Group is obtained at its reconvened meeting. The only business that may be transacted at any reconvened meeting is business that could have been transacted at the

meeting that was adjourned, unless further notice of the adjourned meeting has been given in compliance with the requirements for a special meeting that specifies the additional purpose or purposes for which the meeting is called. Nothing contained in this Section 2.10 shall be deemed or otherwise construed to limit any lawful authority of the chairman of a meeting to adjourn the meeting.

**2.11 CONDUCT OF THE MEETING.** At any meeting of shareholders, the chairman of the meeting shall be entitled to establish the rules of order governing the conduct of business at the meeting.

**2.12 INSPECTORS OF ELECTION.** The Corporation shall appoint one or more persons, each of whom may be an officer or employee of the Corporation, to act as an inspector at each meeting of shareholders. At each such meeting of shareholders, the inspector shall be responsible for (i) ascertaining the number of shares outstanding and the voting power of each; (ii) determining the shares represents at such meeting; (iii) determining the validity of proxies and ballots; (iv) counting all votes; (v) determining the result of all votes; and (vi) making a written report of his or her determinations. In addition, such inspector shall take and sign an oath to execute faithfully his or her duties with strict impartiality and according to the best of his or her ability.

**2.13 ACTION OF SHAREHOLDERS WITHOUT A MEETING.** Action required or permitted to be taken at a meeting of shareholders may be taken without a meeting if the action is taken by all shareholders entitled to vote on the action or, if permitted by the Articles of Incorporation, by persons who would be entitled to vote at a meeting shares having voting power to cast the requisite number of votes (or numbers, in the case of voting by groups) that would be necessary to authorize or take the action at a meeting at which all shareholders entitled to vote were present and voted. The action must be evidenced by one or more written consents describing the action taken, signed by shareholders entitled to take action without a meeting, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. Such consents shall be executed by shareholders sufficient to act by written consent and received by the Corporation within sixty days of the date upon which such consent is dated. Where required by Section 14-2-704 or other applicable provision of the Code, the Corporation shall provide shareholders with written notice of actions taken without a meeting.

**2.14 MATTERS CONSIDERED AT ANNUAL MEETINGS.** Notwithstanding anything to the contrary in these Bylaws, the only business that may be conducted at an annual meeting of shareholders shall be business brought before the meeting (a) by or at the direction of the Board of Directors prior to the meeting, (b) by or at the direction of the Chairman of the Board, the Chief Executive Officer or the President, or (c) by a shareholder of the Corporation who is entitled to vote with respect to the business and who complies with the notice procedures set forth in this Section 2.14. For business to be brought properly before an annual meeting by a shareholder, the shareholder must have given timely notice of the business in writing to the Secretary of the Corporation. To be timely, a shareholder's notice must be delivered or mailed to and received at the principal offices of the Corporation, not less than 60 days before the date of the meeting at which the director(s) are to be elected or the proposal is to be considered; however, if less than 70 days notice or prior public disclosure of the date of the scheduled meeting is given or made, notice by the shareholder, to be timely, must be delivered or received not later than the

close of business on the tenth day following the earlier of the day on which notice of the date of the meeting is mailed to shareholders or public disclosure of the date of such meeting is made. A shareholder's notice to the Secretary shall set forth a brief description of each matter of business the shareholder proposes to bring before the meeting and the reasons for conducting that business at the meeting; the name, as it appears on the Corporation's books, and address of the shareholder proposing the business; the series or class and number of shares of the Corporation's capital stock that are beneficially owned by the shareholder; and any material interest of the shareholder in the proposed business. The chairman of the meeting shall have the discretion to declare to the meeting that any business proposed by a shareholder to be considered at the meeting is out of order and that such business shall not be transacted at the meeting if (i) the chairman concludes that the matter has been proposed in a manner inconsistent with this Section 2.14 or (ii) the chairman concludes that the subject matter of the proposed business is inappropriate for consideration by the shareholders at the meeting.

**ARTICLE THREE**  
**BOARD OF DIRECTORS**

**3.1GENERAL POWERS.** All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed by, the Board of Directors, subject to any limitation set forth in the Articles of Incorporation, in bylaws approved by the shareholders, or in agreements among all the shareholders that are otherwise lawful.

**3.2NUMBER, ELECTION AND TERM OF OFFICE.** The number of directors of the Corporation shall be fixed by resolution of the Board of Directors or of the shareholders from time to time and, until otherwise determined, shall be two; provided, however, that no decrease in the number of directors shall have the effect of shortening the term of an incumbent director. Except as provided in the Articles of Incorporation, elsewhere in this Section 3.2 and in Section 3.4, the directors shall be elected at each annual meeting of shareholders, or at a special meeting of shareholders called for purposes that include the election of directors, by a plurality of the votes cast by the shares entitled to vote and present at the meeting. Despite the expiration of a director's term, he or she shall continue to serve until his or her successor, if there is to be any, has been elected and has qualified.

**3.3REMOVAL OF DIRECTORS.** The entire Board of Directors or any individual director may be removed, with or without cause, by the shareholders, provided that Directors elected by a particular Voting Group may be removed only by the shareholders in that Voting Group. Removal action may be taken only at a shareholder's meeting for which notice of the removal action has been given. A removed director's successor, if any, may be elected at the same meeting to serve the unexpired term.

**3.4VACANCIES.** A vacancy occurring in the Board of Directors may be filled for the unexpired term, unless the shareholders have elected a successor, by the affirmative vote of a majority of the remaining directors, whether or not the remaining directors constitute a quorum; provided, however, that if the vacant office was held by a director elected by a particular Voting Group, only the holders of shares of that Voting Group or the remaining directors elected by that Voting Group shall be entitled to fill the vacancy; provided further, however, that if the vacant

office was held by a director elected by a particular Voting Group and there is no remaining director elected by that Voting Group, the other remaining directors or director (elected by another Voting Group or Groups) may fill the vacancy during an interim period before the shareholders of the vacated director's Voting Group act to fill the vacancy. A vacancy or vacancies in the Board of Directors may result from the death, resignation, disqualification, or removal of any director, or from an increase in the number of directors.

**3.5COMPENSATION.** Directors may receive such compensation for their services as directors as may be fixed by the Board of Directors from time to time. A director may also serve the Corporation in one or more capacities other than that of director and receive compensation for services rendered in those other capacities.

**3.6COMMITTEES OF THE BOARD OF DIRECTORS.** The Board of Directors may designate from among its members an executive committee or one or more other standing or ad hoc committees, each consisting of one or more directors, who serve at the pleasure of the Board of Directors. Subject to the limitations imposed by the Code, each committee shall have the authority set forth in the resolution establishing the committee or in any other resolution of the Board of Directors specifying, enlarging, or limiting the authority of the committee. At any committee meeting, (i) a majority of the committee members shall constitute a quorum for the transaction of business, and (ii) if a committee chair is not designated or present, the members of the committee may designate a chair. Committees shall otherwise conduct themselves in accordance with the mechanical requirements of Article Four.

**3.7QUALIFICATION OF DIRECTORS.** No person elected to serve as a director of the Corporation shall assume office and begin serving unless and until duly qualified to serve, as determined by reference to the Code, the Articles of Incorporation, and any further eligibility requirements established in these Bylaws.

**3.8CERTAIN NOMINATION REQUIREMENTS.** No person may be nominated for election as a director at any annual or special meeting of shareholders unless (a) the nomination has been or is being made pursuant to a recommendation or approval of the Board of Directors of the Corporation or a properly constituted committee of the Board of Directors previously delegated authority to recommend or approve nominees for director; (b) the person is nominated by a shareholder of the Corporation who is entitled to vote for the election of the nominee at the subject meeting, and the nominating shareholder has furnished written notice to the Secretary of the Corporation, at the Corporation's principal office, not less than 60 days before the date of the meeting at which the director(s) are to be elected or the proposal is to be considered; however, if less than 70 days notice or prior public disclosure of the date of the scheduled meeting is given or made, notice by the shareholder, to be timely, must be delivered or received not later than the close of business on the tenth day following the earlier of the day on which notice of the date of the meeting is mailed to shareholders or public disclosure of the date of such meeting is made and the notice (i) sets forth with respect to the person to be nominated his or her name, age, business and residence addresses, principal business or occupation during the past five years, any affiliation with or material interest in the Corporation or any transaction involving the Corporation, and any affiliation with or material interest in any person or entity having an interest materially adverse to the Corporation, and (ii) is accompanied by the sworn or certified statement of the shareholder that the nominee has consented to being nominated and that the shareholder believes the nominee will

stand for election and will serve if elected; or (c) (i) the person is nominated to replace a person previously identified as a proposed nominee (in accordance with the provisions of subpart (b) of this Section 3.8) who has since become unable or unwilling to be nominated or to serve if elected, (ii) the shareholder who furnished such previous identification makes the replacement nomination and delivers to the Secretary of the Corporation (at the time of or prior to making the replacement nomination) an affidavit or other sworn statement affirming that the shareholder had no reason to believe the original nominee would be so unable or unwilling, and (iii) such shareholder also furnishes in writing to the Secretary of the Corporation (at the time of or prior to making the replacement nomination) the same type of information about the replacement nominee as required by subpart (b) of this Section 3.8 to have been furnished about the original nominee. The chairman of any meeting of shareholders at which one or more directors are to be elected, for good cause shown and with proper regard for the orderly conduct of business at the meeting, may waive in whole or in part the operation of this Section 3.8.

**3.9RETIREMENT AGE.** No nominee for director shall be eligible to serve as such if the nominee has attained age 72 or if the nominee's 72nd birthday shall occur during the term of office for which the nominee is being nominated.

**ARTICLE FOUR  
MEETINGS OF THE BOARD OF DIRECTORS**

**4.1REGULAR MEETINGS.** A regular meeting of the Board of Directors shall be held in conjunction with each annual meeting of shareholders. In addition, the Board of Directors may hold regular meetings at other times established by prior resolution.

**4.2SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by or at the request of the Chairman of the Board, the Chief Executive Officer, the President, or any two directors in office at that time.

**4.3PLACE OF MEETINGS.** Directors may hold their meetings at any place in or outside the State of Georgia that the Board of Directors may establish from time to time.

**4.4NOTICE OF MEETINGS.** Directors need not be provided with notice of any regular meeting of the Board of Directors. Unless waived in accordance with Section 4.10, the Corporation shall give at least two days' notice to each director of the date, time, and place of each special meeting. Notice of a meeting shall be deemed to have been given to any director in attendance at any prior meeting at which the date, time, and place of the subsequent meeting was announced.

**4.5QUORUM.** At meetings of the Board of Directors, the greater of (a) a majority of the directors then in office, or (b) one-third of the number of directors fixed in accordance with these Bylaws shall constitute a quorum for the transaction of business.

**4.6VOTE REQUIRED FOR ACTION.** If a quorum is present when a vote is taken, the vote of a majority of the directors present at the time of the vote will be the act of the Board of Directors, unless the vote of a greater number is required by the Code, the Articles of

Incorporation, or these Bylaws. A director who is present at a meeting of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless (a) he or she objects at the beginning of the meeting (or promptly upon his or her arrival) to holding the meeting or transacting business at it; (b) his or her dissent or abstention from the action taken is entered in the minutes of the meeting; or (c) he or she delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

**4.7PARTICIPATION BY CONFERENCE TELEPHONE.** Members of the Board of Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment through which all persons participating may hear and speak to each other. Participation in a meeting pursuant to this Section 4.7 shall constitute presence in person at the meeting.

**4.8ACTION BY DIRECTORS WITHOUT A MEETING.** Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent, describing the action taken, is signed by each director and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. The consent may be executed in counterpart, and shall have the same force and effect as a unanimous vote of the Board of Directors at a duly convened meeting.

**4.9ADJOURNMENTS.** A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the directors present to reconvene at a specific time and place. It shall not be necessary to give notice to the directors of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting that was adjourned, unless a quorum was not present at the meeting that was adjourned, in which case notice shall be given to directors in the same manner as for a special meeting. At any such reconvened meeting at which a quorum is present, any business may be transacted that could have been transacted at the meeting that was adjourned.

**4.10WAIVER OF NOTICE.** A director may waive any notice required by the Code, the Articles of Incorporation, or these Bylaws before or after the date and time of the matter to which the notice relates, by a written waiver signed by the director and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. Attendance by a director at a meeting shall constitute waiver of notice of the meeting, except where a director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or to transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

## **ARTICLE FIVE OFFICERS**

**5.1OFFICERS.** The officers of the Corporation shall consist of a President, a Secretary, and a Treasurer, and may include a Chief Executive Officer separate from the President, each of whom shall be elected or appointed by the Board of Directors. The Board of Directors may also elect a Chairman of the Board from among its members, which may be upon election



designated an officer of the Corporation or a non-executive Chairman of the Board. The Board of Directors from time to time may, or may authorize the Chief Executive Officer or the President to, create and establish other offices and the duties thereof and may, or may authorize the Chief Executive Officer or the President to, elect or appoint, or authorize specific senior officers to appoint, the persons who shall hold such other offices, including one or more Vice Presidents (including Executive Vice Presidents, Senior Vice Presidents, Assistant Vice Presidents, and the like), one or more Assistant Secretaries, and one or more Assistant Treasurers. Whether or not so provided by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President may appoint one or more Assistant Secretaries, and one or more Assistant Treasurers. Any two or more offices may be held by the same person.

**5.2TERM.** Each officer shall serve at the pleasure of the Board of Directors (or, if appointed by the Chief Executive Officer, the President, or a senior officer pursuant to this Article Five, at the pleasure of the Board of Directors, the Chief Executive Officer, the President, or the senior officer authorized to have appointed the officer) until his or her death, resignation, or removal, or until his or her replacement is elected or appointed in accordance with this Article Five.

**5.3COMPENSATION.** The compensation of all officers of the Corporation shall be fixed by the Board of Directors or by a committee or officer appointed by the Board of Directors. Officers may serve without compensation.

**5.4REMOVAL.** All officers (regardless of how elected or appointed) may be removed, with or without cause, by the Board of Directors, and any officer appointed by the Chief Executive Officer, the President, or another senior officer may also be removed, with or without cause, by the Chief Executive Officer, the President, or by any senior officer authorized to have appointed the officer to be removed. Removal will be without prejudice to the contract rights, if any, of the person removed, but shall be effective notwithstanding any damage claim that may result from infringement of such contract rights.

**5.5CHAIRMAN OF THE BOARD.** The Chairman of the Board (if there be one), whether an officer or a non-executive Chairman of the Board, shall preside at and serve as chairman of meetings of the shareholders and of the Board of Directors (unless another person is selected under Section 2.9 to act as chairman). The Chairman of the Board shall perform other duties and have other authority as may from time to time be delegated by the Board of Directors.

**5.6CHIEF EXECUTIVE OFFICER.** The Chief Executive Officer shall be charged with the general and active management of the Corporation, shall see that all orders and resolutions of the Board of Directors are carried into effect, shall have the authority to select and appoint employees and agents of the Corporation, and shall, in the absence or disability of the Chairman of the Board, perform the duties and exercise the powers of the Chairman of the Board. The Chief Executive Officer shall perform any other duties and have any other authority as may be delegated from time to time by the Board of Directors, and shall be subject to the limitations fixed from time to time by the Board of Directors.

**5.7PRESIDENT.** If there shall be no separate Chief Executive Officer of the Corporation, then the President shall be the chief executive officer of the Corporation and shall

have all the duties and authority given under these Bylaws to the Chief Executive Officer. The President shall otherwise be the chief operating officer of the Corporation and shall, subject to the authority of the Chief Executive Officer, have responsibility for the conduct and general supervision of the business operations of the Corporation. The President shall perform such other duties and have such other authority as may from time to time be delegated by the Board of Directors or the Chief Executive Officer. In the absence or disability of the Chief Executive Officer, the President shall perform the duties and exercise the powers of the Chief Executive Officer.

**5.8VICE PRESIDENTS.** The Vice President (if there be one) shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, whether the duties and powers are specified in these Bylaws or otherwise. If the Corporation has more than one Vice President, the one designated by the Board of Directors or the Chief Executive Officer (in that order of precedence) shall act in the event of the absence or disability of the President. Vice Presidents shall perform any other duties and have any other authority as from time to time may be delegated by the Board of Directors, the Chief Executive Officer, or the President.

**5.9SECRETARY.** The Secretary shall be responsible for preparing minutes of the meetings of shareholders, directors, and committees of directors and for authenticating records of the Corporation. The Secretary or any Assistant Secretary shall have authority to give all notices required by law or these Bylaws. The Secretary shall be responsible for the custody of the corporate books, records, contracts, and other documents. The Secretary or any Assistant Secretary may affix the corporate seal to any lawfully executed documents requiring it, may attest to the signature of any officer of the Corporation, and shall sign any instrument that requires the Secretary's signature. The Secretary or any Assistant Secretary shall perform any other duties and have any other authority as from time to time may be delegated by the Board of Directors, the Chief Executive Officer, or the President.

**5.10TREASURER.** Unless otherwise provided by the Board of Directors, the Treasurer shall be responsible for the custody of all funds and securities belonging to the Corporation and for the receipt, deposit, or disbursement of these funds and securities under the direction of the Board of Directors. The Treasurer shall cause full and true accounts of all receipts and disbursements to be maintained and shall make reports of these receipts and disbursements to the Board of Directors, the Chief Executive Officer and President upon request. The Treasurer or Assistant Treasurer shall perform any other duties and have any other authority as from time to time may be delegated by the Board of Directors, the Chief Executive Officer, or the President.

## **ARTICLE SIX DISTRIBUTIONS AND DIVIDENDS**

Unless the Articles of Incorporation provide otherwise, the Board of Directors, from time to time in its discretion, may authorize or declare distributions or share dividends in accordance with the Code.

**ARTICLE SEVEN  
SHARES**

**7.1SHARES.** The Corporation may issue shares of the Corporation with or without certificates. All certificates representing shares of the Corporation shall be in such form as the Board of Directors from time to time may adopt in accordance with the Code. Share certificates, if any, shall be in registered form and shall indicate the date of issue, the name of the Corporation, that the Corporation is organized under the laws of the State of Georgia, the name of the shareholder, and the number and class of shares and designation of the series, if any, represented by the certificate. Each certificate shall be signed by the President or a Vice President (or in lieu thereof, by the Chairman of the Board or Chief Executive Officer, if there be one) and may be signed by the Secretary or an Assistant Secretary; provided, however, that where the certificate is signed (either manually or by facsimile) by a transfer agent, or registered by a registrar, the signatures of those officers may be facsimiles. Within a reasonable time after the issue or transfer of shares without certificates, the Corporation shall send the holder of such shares a written statement as prescribed by the Code.

**7.2RIGHTS OF CORPORATION WITH RESPECT TO REGISTERED OWNERS.** Prior to due presentation for transfer of registration of its shares, the Corporation may treat the registered owner of the shares (or the beneficial owner of the shares to the extent of any rights granted by a nominee certificate on file with the Corporation pursuant to any procedure that may be established by the Corporation in accordance with the Code) as the person exclusively entitled to vote the shares, to receive any dividend or other distribution with respect to the shares, and for all other purposes; and the Corporation shall not be bound to recognize any equitable or other claim to or interest in the shares on the part of any other person, whether or not it has express or other notice of such a claim or interest, except as otherwise provided by law.

**7.3TRANSFERS OF SHARES.** Transfers of shares shall be made upon the books of the Corporation kept by the Corporation or by the transfer agent designated to transfer the shares, only upon direction of the person named in the certificate, or, with respect to uncertificated shares, the registered owner of such shares, or by an attorney lawfully constituted in writing, and, if such shares are represented by a certificate or certificates, on surrender of the certificate or certificates for such shares properly endorsed, or for uncertificated shares, upon the presentation of proper evidence of authority to transfer by the record holder. Before any new certificate is issued or before any transfer of uncertificated shares is registered, any old certificate shall be surrendered for cancellation or, in the case of a certificate alleged to have been lost, stolen, or destroyed, the provisions of Section 7.5 of these Bylaws shall have been complied with.

**7.4DUTY OF CORPORATION TO REGISTER TRANSFER.** Notwithstanding any of the provisions of Section 7.3 of these Bylaws, the Corporation is under a duty to register the transfer of its shares only if: (a) the share certificate, if any, is endorsed by the appropriate person or persons; (b) reasonable assurance is given that each required endorsement or other instruction is genuine and effective; (c) the Corporation has no duty to inquire into adverse claims or has discharged any such duty; (d) any applicable law relating to the collection of taxes has been complied with; (e) the transfer is in fact rightful or is to a bona fide purchaser; and (f) the transfer

is in compliance with applicable provisions of any transfer restrictions of which the Corporation shall have notice.

**7.5 LOST, STOLEN, OR DESTROYED CERTIFICATES.** Any person claiming a share certificate to be lost, stolen, or destroyed shall make an affidavit or affirmation of this claim in such a manner as the Corporation may require and shall, if the Corporation requires, give the Corporation a bond of indemnity in form and amount, and with one or more sureties satisfactory to the Corporation, as the Corporation may require, whereupon an appropriate new certificate (or uncertificated shares in lieu of a new certificate) may be issued in lieu of the one alleged to have been lost, stolen or destroyed.

**7.6 FIXING OF RECORD DATE.** For the purpose of determining shareholders (a) entitled to notice of or to vote at any meeting of shareholders or, if necessary, any adjournment thereof, (b) entitled to receive payment of any distribution or dividend, or (c) for any other proper purpose, the Board of Directors may fix in advance a date as the record date. The record date may not be more than 70 days (and, in the case of a notice to shareholders of a shareholders' meeting, not less than 10 days) prior to the date on which the particular action, requiring the determination of shareholders, is to be taken. A separate record date may be established for each Voting Group entitled to vote separately on a matter at a meeting. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting, unless the Board of Directors shall fix a new record date for the reconvened meeting, which it must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

**7.7 RECORD DATE IF NONE FIXED.** If no record date is fixed as provided in Section 7.6, then the record date for any determination of shareholders that may be proper or required by law shall be, as appropriate, the date on which notice of a shareholders' meeting is mailed, the date on which the Board of Directors adopts a resolution declaring a dividend or authorizing a distribution, or the date on which any other action is taken that requires a determination of shareholders.

## **ARTICLE EIGHT INDEMNIFICATION**

**8.1 INDEMNIFICATION OF DIRECTORS.** The Corporation shall indemnify and hold harmless any director of the Corporation (an "Indemnified Person") who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, whether formal or informal, including any action or suit by or in the right of the Corporation (for purposes of this Article Eight, collectively, a "Proceeding") because he or she is or was a director, officer, employee, or agent of the Corporation, against any judgment, settlement, penalty, fine, or reasonable expenses (including, but not limited to, attorneys' fees and disbursements, court costs, and expert witness fees) incurred with respect to the Proceeding (for purposes of this Article Eight, a "Liability"), provided, however, that no indemnification shall be made for: (a) any appropriation by a director, in violation of the director's duties, of any business opportunity of the corporation; (b) any acts or omissions of a director that involve intentional misconduct or a knowing violation of law; (c) the

types of liability set forth in Code Section 14-2-832; or (d) any transaction from which the director received an improper personal benefit.

**8.2 INDEMNIFICATION OF OTHERS.** The Board of Directors shall have the power to cause the Corporation to provide to officers, employees, and agents of the Corporation all or any part of the right to indemnification permitted for such persons by appropriate provisions of the Code. Persons to be indemnified may be identified by position or name, and the right of indemnification may be different for each of the persons identified. Each officer, employee, or agent of the Corporation so identified shall be an "Indemnified Person" for purposes of the provisions of this Article Eight.

**8.3 OTHER ORGANIZATIONS.** The Corporation shall provide to each director, and the Board of Directors shall have the power to cause the Corporation to provide to any officer, employee, or agent, of the Corporation who is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise all or any part of the right to indemnification and other rights of the type provided under Sections 8.1, 8.2, 8.4, and 8.10 of this Article Eight (subject to the conditions, limitations, and obligations specified in those Sections) permitted for such persons by appropriate provisions of the Code. Persons to be indemnified may be identified by position or name, and the right of indemnification may be different for each of the persons identified. Each person so identified shall be an "Indemnified Person" for purposes of the provisions of this Article Eight.

**8.4 ADVANCES.** Expenses (including, but not limited to, attorneys' fees and disbursements, court costs, and expert witness fees) incurred by an Indemnified Person in defending any Proceeding of the kind described in Sections 8.1 or 8.3, as to an Indemnified Person who is a director of the Corporation, or in Sections 8.2 or 8.3, as to other Indemnified Persons, if the Board of Directors has specified that advancement of expenses be made available to any such Indemnified Person, shall be paid by the Corporation in advance of the final disposition of such Proceeding as set forth herein. The Corporation shall promptly pay the amount of such expenses to the Indemnified Person, but in no event later than 10 days following the Indemnified Person's delivery to the Corporation of a written request for an advance pursuant to this Section 8.4, together with a reasonable accounting of such expenses; provided, however, that the Indemnified Person shall furnish the Corporation a written affirmation of his or her good faith belief that he or she has met the applicable standard of conduct and a written undertaking and agreement to repay to the Corporation any advances made pursuant to this Section 8.4 if it shall be determined that the Indemnified Person is not entitled to be indemnified by the Corporation for such amounts. The Corporation may make the advances contemplated by this Section 8.4 regardless of the Indemnified Person's financial ability to make repayment. Any advances and undertakings to repay pursuant to this Section 8.4 may be unsecured and interest-free.

**8.5 NON-EXCLUSIVITY.** Subject to any applicable limitation imposed by the Code or the Articles of Incorporation, the indemnification and advancement of expenses provided by or granted pursuant to this Article Eight shall not be exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any provision of the Articles of Incorporation, or any Bylaw, resolution, or agreement specifically or in general terms

approved or ratified by the affirmative vote of holders of a majority of the shares entitled to be voted thereon.

**8.6INSURANCE.** The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or who, while serving in such a capacity, is also or was also serving at the request of the Corporation as a director, officer, trustee, partner, employee, or agent of any corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against any Liability that may be asserted against or incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article Eight.

**8.7NOTICE.** If the Corporation indemnifies or advances expenses to a director under any of Sections 14-2-851 through 14-2-854 of the Code in connection with a Proceeding by or in the right of the Corporation, the Corporation shall, to the extent required by Section 14-2-1621 or any other applicable provision of the Code, report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

**8.8SECURITY.** The Corporation may designate certain of its assets as collateral, provide self-insurance, establish one or more indemnification trusts, or otherwise secure or facilitate its ability to meet its obligations under this Article Eight, or under any indemnification agreement or plan of indemnification adopted and entered into in accordance with the provisions of this Article Eight, as the Board of Directors deems appropriate.

**8.9AMENDMENT.** Any amendment to this Article Eight that limits or otherwise adversely affects the right of indemnification, advancement of expenses, or other rights of any Indemnified Person hereunder shall, as to such Indemnified Person, apply only to Proceedings based on actions, events, or omissions (collectively, "Post Amendment Events") occurring after such amendment and after delivery of notice of such amendment to the Indemnified Person so affected. Any Indemnified Person shall, as to any Proceeding based on actions, events, or omissions occurring prior to the date of receipt of such notice, be entitled to the right of indemnification, advancement of expenses, and other rights under this Article Eight to the same extent as if such provisions had continued as part of the Bylaws of the Corporation without such amendment. This Section 8.9 cannot be altered, amended, or repealed in a manner effective as to any Indemnified Person (except as to Post Amendment Events) without the prior written consent of such Indemnified Person.

**8.10AGREEMENTS.** The provisions of this Article Eight shall be deemed to constitute an agreement between the Corporation and each Indemnified Person hereunder. In addition to the rights provided in this Article Eight, the Corporation shall have the power, upon authorization by the Board of Directors, to enter into an agreement or agreements providing to any Indemnified Person indemnification rights substantially similar to those provided in this Article Eight.

**8.11CONTINUING BENEFITS.** The rights of indemnification and advancement of expenses permitted or authorized by this Article Eight shall, unless otherwise provided when such rights are granted or conferred, continue as to a person who has ceased to be a director, officer,

employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

**8.12SUCCESSORS.** For purposes of this Article Eight, the term “Corporation” shall include any corporation, joint venture, trust, partnership, or unincorporated business association that is the successor to all or substantially all of the business or assets of this Corporation, as a result of merger, consolidation, sale, liquidation, or otherwise, and any such successor shall be liable to the persons indemnified under this Article Eight on the same terms and conditions and to the same extent as this Corporation.

**8.13SEVERABILITY.** Each of the Sections of this Article Eight, and each of the clauses set forth herein, shall be deemed separate and independent, and should any part of any such Section or clause be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall in no way render invalid or unenforceable any other part thereof or any separate Section or clause of this Article Eight that is not declared invalid or unenforceable.

**8.14ADDITIONAL INDEMNIFICATION.** In addition to the specific indemnification rights set forth herein, the Corporation shall indemnify each of its directors and such of its officers as have been designated by the Board of Directors to the full extent permitted by action of the Board of Directors without shareholder approval under the Code or other laws of the State of Georgia as in effect from time to time.

**ARTICLE NINE  
MISCELLANEOUS**

**9.1INSPECTION OF BOOKS AND RECORDS.** The Board of Directors shall have the power to determine which accounts, books, and records of the Corporation shall be available for shareholders to inspect or copy, except for those books and records required by the Code to be made available upon compliance by a shareholder with applicable requirements, and shall have the power to fix reasonable rules and regulations (including confidentiality restrictions and procedures) not in conflict with applicable law for the inspection and copying of accounts, books, and records that by law or by determination of the Board of Directors are made available. Unless required by the Code or otherwise provided by the Board of Directors, a shareholder of the Corporation holding less than two percent of the total shares of the Corporation then outstanding shall have no right to inspect the books and records of the Corporation.

**9.2FISCAL YEAR.** The Board of Directors is authorized to fix the fiscal year of the Corporation and to change the fiscal year from time to time as it deems appropriate.

**9.3CORPORATE SEAL.** The corporate seal will be in such form as the Board of Directors may from time to time determine. The Board of Directors may authorize the use of one or more facsimile forms of the corporate seal. The corporate seal need not be used unless its use is required by law, by these Bylaws, or by the Articles of Incorporation.

**9.4ANNUAL STATEMENTS.** Not later than four months after the close of each fiscal year, and in any case prior to the next annual meeting of shareholders, the Corporation shall prepare

(a) a balance sheet showing in reasonable detail the financial condition of the Corporation as of the close of its fiscal year, and (b) a profit and loss statement showing the results of its operations during its fiscal year. Upon receipt of written request, the Corporation promptly shall mail to any shareholder of record a copy of the most recent such balance sheet and profit and loss statement, in such form and with such information as the Code may require.

**9.5NOTICE.** (a) Whenever these Bylaws require notice to be given to any shareholder or to any director, the notice may be given by mail, in person, by courier delivery, by telephone, or by telecopier, telegraph, or similar electronic means. Whenever notice is given to a shareholder or director by mail, the notice shall be sent by depositing the notice in a post office or letter box in a postage-prepaid, sealed envelope addressed to the shareholder or director at his or her address as it appears on the books of the Corporation. Any such written notice given by mail shall be effective: (i) if given to shareholders, at the time the same is deposited in the United States mail; and (ii) in all other cases, at the earliest of (x) when received or when delivered, properly addressed, to the addressee's last known principal place of business or residence, (y) five days after its deposit in the mail, as evidenced by the postmark, if mailed with first-class postage prepaid and correctly addressed, or (z) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee. Whenever notice is given to a shareholder or director by any means other than mail, the notice shall be deemed given when received.

(b) In calculating time periods for notice, when a period of time measured in days, weeks, months, years, or other measurement of time is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted.

#### **ARTICLE TEN AMENDMENTS**

Except as otherwise provided below or under the Code, the Board of Directors shall have the power to alter, amend, or repeal these Bylaws or adopt new Bylaws. Notwithstanding any other provision of these Bylaws, the Corporation's Articles of Incorporation or law, neither Section 2.3, 2.14 or 3.8, nor Article Eight hereof nor this Article Ten may be amended or repealed except upon the affirmative vote of holders of at least a majority of the total number of votes of the then outstanding shares of capital stock of the Company that are entitled to vote generally in the election of directors, voting together as a single class. Any Bylaws adopted by the Board of Directors may be altered, amended, or repealed, and new Bylaws adopted, by the shareholders. The shareholders may prescribe in adopting any Bylaw or Bylaws that the Bylaw or Bylaws so adopted shall not be altered, amended, or repealed by the Board of Directors.



**Exhibit 10.1**

**EXECUTIVE EMPLOYMENT AGREEMENT**

This Executive Employment Agreement (this “**Agreement**”) is made as of the “**Effective Date**” set forth below, by and between Manhattan Associates, Inc., a Georgia corporation (“**Company**”), and the undersigned “**Executive**.”

In consideration of Company’s employment and continued employment of Executive, Company and Executive agree as follows:

1. **Contents of Agreement.** This Agreement consists of this Signature Page and attached Schedules A (“General Terms and Conditions”), B (“Position and Certain Compensation Information”), C (“Referenced Competitors”), and D (“Release”), each of which is incorporated into this Agreement by reference.
2. **Definitions.** Except as otherwise defined in this Agreement, capitalized terms will have the meanings set forth on this Signature Page and in Section 1 of Schedule A entitled “Definitions.”

**THIS AGREEMENT WILL BECOME EFFECTIVE AS OF THE DATE SIGNED BY EXECUTIVE BELOW.**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**EXECUTIVE**

[Name of Executive]  
[Address of Executive]

**COMPANY**

Manhattan Associates, Inc.  
2300 Windy Ridge Parkway, Tenth Floor  
Atlanta, GA 30339

\_\_\_\_\_  
EXECUTIVE SIGNATURE

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
NAME PRINTED

\_\_\_\_\_  
NAME & TITLE PRINTED

\_\_\_\_\_  
EFFECTIVE DATE

\_\_\_\_\_  
DATE

## SCHEDULE A GENERAL TERMS AND CONDITIONS

1. **Definitions.** Except as otherwise specified in this Agreement, the definitions of the capitalized terms set forth in this Section 1 will apply with respect to the entire Agreement.

1.1 **Agreement.** This Executive Employment Agreement.

1.2 **Base Salary.** Executive's base salary as set forth on Schedule B, as may be increased annually at the discretion of the Board or the Committee.

1.3 **Board.** Company's Board of Directors as constituted from time to time.

1.4 **Bonus Target Amount.** The target amount for Executive's Performance-related Bonus, as set forth on Schedule B, as may be adjusted annually at the discretion of the Board or the Committee.

1.5 **Cause.** An act or acts or omission or omissions to act by Executive involving Executive's (i) willful and continued failure substantially to perform their duties with Company (other than a failure resulting from Executive's Disability) and that failure continues for thirty (30) days following written notice from Company to Executive that provides a reasonable description of the basis for the determination that Executive has failed to perform their duties, (ii) conviction for a criminal offense other than a misdemeanor not disclosable under the federal securities laws, (iii) willful and continued failure to cooperate with any investigation or similar proceeding involving Company by any governmental authority regarding any material breach of law or regulation and continuation of that failure for thirty (30) days following written notice from Company to Executive that provides a reasonable description of the basis for the determination that Executive has failed to cooperate, (iv) breach of this Agreement in any material respect where that breach is not susceptible to remedy or cure or has already materially damaged Company, or is susceptible to remedy or cure and no such material damage yet has occurred, and is not cured or remedied reasonably promptly after specific written notice from Company to Executive that provides a reasonable description of the breach, or (v) conduct that the Board has determined, reasonably and in good faith, to be dishonest, fraudulent, unlawful, or grossly negligent, or does not comply with Company's Code of Conduct or materially fails to comply with a set of standards of conduct and business practices that have been labeled as such and provided by Company to Executive prior to that conduct, which is not cured to the reasonable satisfaction of the Board within thirty (30) days of written notice from the Board to Executive.

1.6 **Change of Control.** The occurrence of any of the following events:

(i) Any transaction or series of transactions pursuant to which Company sells, transfers, leases, exchanges, or disposes of all or substantially all (*i.e.*, at least eighty-five percent

(85%)) of its assets for cash or property, or for a combination of cash and property, or for other consideration,

(ii) Any transaction pursuant to which one or more Persons acquire by merger, consolidation, reorganization, division, or other business combination or transaction, or by a purchase of an interest in Company, an interest in Company so that after that transaction, the shareholders of Company immediately prior to that transaction no longer have a controlling (*i.e.*, fifty percent (50%) or more) voting interest in Company,

(iii) Any change in the composition of the Board within a twelve (12) month period resulting in fewer than a majority of the directors being Incumbent Directors, or

(iv) Any transaction or series of transactions pursuant to which any Person or Persons acting in concert acquire outstanding voting securities of Company, if, after that transaction or those transactions, the acquiring Persons own, control, or hold, with power to vote, at least forty percent (40%) of any class of voting securities of Company.

1.7 **Code.** The Internal Revenue Code of 1986, as amended.

1.8 **Committee.** The Compensation Committee of the Board.

1.9 **Company.** As defined on the Signature Page to this Agreement; provided, however, where the context reasonably requires, "Company" also will include Manhattan Associates, Inc.'s affiliates.

1.10 **Company Business.** (A) The business of developing, marketing, selling, licensing, installing, implementing, deploying, servicing, and maintaining supply chain computer software solutions designed for one or more of the following: (i) management of warehouses and distribution centers, (ii) management of transportation logistics throughout the supply chain, including carrier management, transportation procurement, and transportation execution, (iii) product order, fulfillment and returns processes, (iv) retail, wholesale, and multi-channel inventory planning and management, (v) mobile device-enabled retail applications, (vi) supply chain event monitoring and reporting, and (vi) supply chain analysis and evaluation, and (B) any other business activities, products, or services that are of the type conducted, authorized, offered, or provided by Company within the twenty-four (24) month period immediately prior to the Termination Date.

1.11 **Competing Business.** Activities, products, or services that are the same as or similar to any of those included in the definition of Company Business.

1.12 **Confidential Information.** (A) Any and all data and information in whatever form: (i) relating to or

arising from the business of Company, or of third Persons, regardless of whether the data or information constitutes a trade secret as defined by applicable law, (ii) disclosed to Executive or of which Executive becomes or became aware as a consequence of Executive's relationship with Company, (iii) having value to Company, (iv) not generally known to competitors of Company, and (v) which includes, without limitation: trade secrets; methods of operation; customer and potential customer information; price lists; financial information and projections; Company organizational structure information; business plans and strategies; Company product information including design, development, and marketing information, installation and configuration guides, user manuals, functional and technical specifications, data models and data dictionaries, and software source code; Company policies, processes, methods, and procedures; Company inventions and discoveries; and similar information, and (B) third party confidential information in Company's possession.

1.13 **Constructive Termination.** The occurrence during Executive's employment of any one of the events set forth in (i) through (v) below and satisfaction of the following conditions: (a) Executive provides notice to Company of the Constructive Termination condition within ninety (90) days of their learning of its initial existence, (b) Company fails to remedy the Constructive Termination condition within thirty (30) days following the notice, and (c) Executive terminates their employment within six (6) months of their learning of the existence of the Constructive Termination condition. The Constructive Termination events are as follows: (i) a material adverse change in Executive's authority, duties, or responsibilities (a change in the position or individual to whom Executive reports will not by itself be deemed a material adverse change), (ii) a material failure to pay Executive the compensation required by this Agreement, (iii) after a Change of Control, (a) relocation of Company's headquarters more than thirty (30) miles outside of the Atlanta, Georgia, greater metropolitan area or (b) Company requiring Executive to be based more than thirty (30) miles from the Work Location at which Executive was based immediately prior to the Change of Control, (iv) after a Change of Control, the material reduction in the compensation and benefits provided to Executive under the employee benefit plans, programs, and practices in effect immediately prior to the Change of Control, or (v) after a Change of Control, Company's failure promptly to obtain an agreement from any successor or assignee of Company to assume and agree to perform Company's obligations under this Agreement unless that successor or assignee is bound to the performance of this Agreement as a matter of law.

1.14 **Disability.** Executive's inability because of physical or mental incapacity to substantially perform Executive's duties for Company on a full-time basis, which inability lasts for a period of six (6) consecutive months. The Board (or the Committee, if requested to do so by the Board) will be responsible for determining in good faith an Executive's Disability based on the information received by the Board (or the Committee).

1.15 **Duties.** Duties of the type performed by Executive for Company during the twenty-four (24) month period immediately prior to the Termination Date. "Duties" will not be considered product specific; e.g., if Executive has chief operating responsibility with respect to one suite of Company products and Executive leaves Company and assumes chief operating responsibility for a Competing Business with respect to a suite of products of that Competing Business, then Executive's duties for the Competing Business will be deemed to be the same or similar to their Duties.

1.16 **Effective Date.** The date on which this Agreement is signed by Executive.

1.17 **Equity Awards.** Stock options, restricted stock, restricted stock units, and other equity awards that may be granted under the Stock Incentive Plan.

1.18 **Executive.** As defined on the Signature Page to this Agreement.

1.19 **Incumbent Directors.** The Persons who, at the Effective Date, constitute the Board, and any Person becoming a director after the Effective Date and whose election or nomination for election was approved by a vote of at least a majority of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of Company in which that Person is named as a nominee for director, without written objection to that nomination); *provided, however*, that no individual initially elected or nominated as a director of Company as a result of an actual or threatened election contest (as described in Rule 14a-11 under the United States Securities Act of 1934) or other actual or threatened solicitation of proxies or consents by or on behalf of any "person" (as defined in Section 3(a)(9) of the Act and as used in Section 13(d)(3) and 14(d)(2) of the Act) other than the Board, including by reason of any agreement intended to avoid or settle any such contest or solicitation, will be deemed an Incumbent Director; and provided further, that subject to the provisions of this Section 1.19, no Person will be deemed to be an Incumbent Director until that time as they take office as a director of Company.

1.20 **Invention.** Any idea, invention, discovery, improvement, innovation, design, process, method, formula, technique, machine, article of manufacture, composition of matter, algorithm, or computer program, and any improvements to any of the above.

1.21 **Material Contact.** Contact between Executive and a Company customer or potential customer (i) with which Executive deals or has dealt on behalf of Company, (ii) whose dealings with Company are or were coordinated or supervised by Executive, (iii) about which Executive obtains or obtained Confidential Information in the ordinary course of business as a result of Executive's association with Company, or (iv) that receives or received products or services authorized by Company, the sale or provision of which results or resulted in compensation, commissions, or earnings for Executive within twenty-four (24) months prior to the Termination Date.

1.22 **Parties.** Executive and Company.

1.23 **Performance-related Bonus.** Executive's performance-related annual cash bonus, calculated in a manner consistent with the terms of Company's performance-related bonus plan and this Agreement.

1.24 **Person.** A natural person, or a corporation, partnership, limited partnership, joint venture, limited liability company, trust, other business, nonbusiness, charitable, or governmental entity, or governmental agency.

1.25 **Recoupment Policy.** A policy of recoupment of compensation adopted or amended from time to time by the Board or the Committee as it deems necessary or desirable to provide for recovery of erroneously awarded compensation, including without limitation a policy to comply with the requirements of Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (providing for recovery of erroneously awarded compensation), Section 304 of the Sarbanes-Oxley Act of 2002 (providing for forfeiture of certain bonuses and profits), and any implementing rules and regulations of the U.S. Securities and Exchange Commission and applicable listing standards of a national securities exchange adopted in accordance with either of those Acts, which policy is incorporated into this Agreement by this reference.

1.26 **Release.** A release of Company from all liabilities and claims of any kind substantially in the form attached as Schedule D to this Agreement, revised as necessary at the time of execution to comply with applicable law.

1.27 **Restricted Territory.** The United States of America, the United Kingdom, France, the Netherlands, Japan, China, Singapore, India, Australia, Brazil, Chile, Colombia, Mexico, Panama, Iceland, Poland, Romania, Russia, South Africa, Spain, Sweden, United Arab Emirates, Indonesia, Malaysia, South Korea, Thailand, and any other country in which Company engages in the Company Business as of the Termination Date.

1.28 **Restriction Period.** That period beginning on the Termination Date and ending on the later of (i) the date that is the twelve (12) month anniversary of the Termination Date or (ii) if severance payments become due to the Executive pursuant to Section 4.1, the date on which the last of those severance payments is due.

1.29 **Section 409A.** Section 409A of the Code.

1.30 **Stock Incentive Plan.** The Manhattan Associates, Inc. 2007 Stock Incentive Plan, as amended, or any successor plan to that plan.

1.31 **Subject Invention.** Any Invention conceived by Executive during the term of their employment with Company solely or jointly with others and: (i) relates to Company's actual or anticipated business, research, or development (except where that research or development is unrelated to Company's then-current business lines and Executive is not aware that that research or development is taking place), (ii) results from any work performed by Executive using any equipment, facilities, materials, Confidential

Information, or Company personnel, or (iii) is suggested by or results from any task assigned to Executive by, or performed by Executive for or on behalf of, Company.

1.32 **Termination Date.** The date on which Executive's termination of employment is effective under this Agreement.

1.33 **Work.** Any copyrightable work of authorship, including, without limitation, computer programs (including the contents of read-only memories), any technical descriptions for products, user's guides, graphical works, audiovisual works, sound recordings, literary works, illustrations, advertising materials, and any contribution to those materials.

1.34 **Work Location.** Executive's primary place of business as set forth on Schedule B, as may be changed by Company from time to time at the discretion of the Executive's direct supervisor or the Board.

## 2. Employment.

2.1 **Position and Responsibilities.** As of the Effective Date, Company will continue to employ Executive, and Executive accepts continuing employment by Company, at the position set forth on Schedule B, all in accordance with and subject to the terms set forth in this Agreement. Executive will perform those responsibilities consistent with their position and those other duties as may be and previously have been determined from time to time by Company's CEO, Executive's direct supervisor (if different from the CEO), or the Board from time to time, and perform those responsibilities to the best of their ability while devoting their full business time to those responsibilities. Executive will act in good faith to promote the interests of Company. Executive may participate in those civic, charitable, and personal investment activities as Executive elects that do not meaningfully interfere with their duties for Company. Executive will conduct themselves in a business-like and professional manner as appropriate for their position and represent Company in a manner that complies with good business and ethical practices. Executive will be subject to and abide by the written policies and procedures of Company applicable to executive personnel of Company, as adopted from time to time by Company and communicated to Executive.

2.2 **Executive's Work Location.** Executive will work out of their Work Location set forth on Schedule B, which Work Location Company may change from time to time at the discretion of Executive's direct supervisor or the Board, subject to the Constructive Termination provisions of this Agreement.

3. **Compensation.** During the term of Executive's employment with Company, the following compensation provisions will apply:

3.1 **Base Salary.** Company will pay to Executive the Base Salary, subject to all payroll and income tax withholdings and other authorized

deductions, which Base Salary may be increased annually at the discretion of the Board or the Committee.

3.2 **Performance-Related Bonus.** Executive will be eligible to receive the Performance-related Bonus with a target opportunity equal to the Bonus Target Amount, subject to those terms and conditions as may be established by Company. The Board or the Committee will determine the amount of the bonus, in its reasonable discretion, utilizing financial information reviewed or audited by Company's independent auditors. Company will pay the bonus in accordance with its policies in place from time to time, and the bonus will be subject to all payroll and income tax withholdings and other authorized deductions.

3.3 **Equity Awards.** Executive will be eligible to receive grants of Equity Awards. The grants will have an annual value that reflects Executive's position, duties, and responsibilities with Company and will be commensurate with grants to other executive officers of Company. The grants may be performance-based, service-based, or any combination of them. The Board or the Committee will determine, in its discretion, the form, vesting, forfeiture, and other terms and conditions of the grants. Each grant of an Equity Award will be subject to the terms and conditions of the award agreement for that grant.

3.4 **Employee Benefits.** Executive will be eligible to participate in all employee benefit plans that Company provides for its employees at the executive level, including 401(k), deferred compensation, health care, life insurance, disability, and similar benefit plans, provided that Company is not required to maintain any particular employee benefit plan or program and may amend any employee benefit plan or program at any time in its sole discretion. Concurrently with the execution by the Parties of this Agreement, the Parties will enter into an indemnification agreement, prepared by or at the direction of Company, under which Company will indemnify Executive to the full extent permitted by law and under Company's Articles of Incorporation and Bylaws for and with respect to any claim, loss, or cause of action resulting from, arising out of, or in connection with Executive's service as an officer, director, or employee of Company or any of its subsidiaries (except if the Parties already are parties to Company's current form of indemnification agreement). Company will ensure that Executive is covered under a directors and officers liability insurance policy in the same manner as other executive officers and directors of Company.

3.5 **Expenses.** Executive will be promptly reimbursed for expenses reasonably incurred in the performance of their executive duties in accordance with the written policies of Company in effect from time to time.

3.6 **Vacation.** Except as otherwise set forth on Schedule B or agreed to between the Parties in writing, Executive will be eligible for vacation each calendar year in accordance with the standard Company vacation policy.

3.7 **Recoupment of Compensation.** Performance-related Bonuses, other incentive

compensation, and Equity Awards paid or granted to Executive, whether pursuant to this Agreement or otherwise, will be subject to those terms and conditions of any applicable Recoupment Policy.

#### 4. Termination of Employment.

4.1 **Termination.** Executive's employment under the terms of this Agreement will continue until it is terminated in writing by the Parties, or until Executive's employment is terminated in accordance with the terms of this Agreement. Either Company or Executive may terminate Executive's employment at any time by written notice to the other, which, if given by Executive, will be given at least thirty (30) days prior to the Termination Date designated by Executive. If Executive's employment is terminated (i) by Company for Cause, (ii) as a result of Executive's Disability, or (iii) upon and as a result of Executive's death, or if Executive terminates his employment other than for Constructive Termination, then Company's obligations under this Agreement will cease as of the Termination Date; provided, however, that Executive (or their estate) will be entitled to (a) salary earned through the Termination Date, (b) any bonuses or other incentive compensation earned and payable under the terms of the applicable bonus or other incentive plan as of the Termination Date, (c) benefits earned by or payable to Executive pursuant to the terms of any health, life insurance, disability, welfare, retirement, or other plan or program maintained by Company in which Executive participates or the terms of any Equity Award, and (d) reimbursement of Executive's expenses prior to termination in accordance with Section 3.5. If Company terminates Executive's employment other than pursuant to clauses (i) through (iii) of this Section 4.1, or if Executive terminates their employment as a Constructive Termination, Executive will be entitled to receive the severance payments provided in Section 4.2 (subject to the conditions set forth in Section 4.2). Except as otherwise provided in this Agreement, if Executive's employment is terminated and they are entitled to severance payments under this Section 4.1, then they will not be required to mitigate damages by seeking other employment, and any compensation or benefits they receive will not reduce the amount payable by Company under this Agreement. The severance payments provided pursuant to Section 4.2 will be the only severance benefits payable to Executive by Company because of the termination of Executive's employment, and Executive waives their rights (if any) to any severance benefits under any other plan or program of Company.

4.2 **Severance Payments.** Subject to the conditions set forth in the following sentence and the limitations set forth in the last sentence of this paragraph and in Section 4.5, if Executive's employment is terminated under Section 4.1 entitling Executive to receive severance payments, then the severance payments will comprise the following payments, subject to withholding of all applicable payroll and income taxes and other authorized deductions: (i) twelve (12) full months of Executive's Base Salary, payable in twenty-four (24) equal semimonthly installments on Company's regular payroll dates beginning on the first payroll date after

the Release is executed and delivered to Company by Executive and becomes effective, (ii) twelve (12) monthly payments each of which is equal to the monthly costs of COBRA coverage for medical and dental coverage for Executive and their dependents (plus a tax gross-up on such COBRA payments) and the right to elect to participate in Company's medical and dental coverages for that twelve (12) month period, and (iii) if that termination of Executive's employment occurs on or within twenty-four (24) months following the date of a Change of Control, (a) a pro rata bonus for the year of termination (based on the number of days that have elapsed to the Termination Date), calculated at target performance level, less any bonus amount already paid or payable for performance with respect to that year, and (b) an additional annual bonus amount equal to the greater of Executive's target bonus for the year of termination or Executive's target bonus for the prior year, which bonus payments ((a) and (b) above) will be paid as a lump sum on the sixtieth (60<sup>th</sup>) day after the Termination Date. Company's obligation to make the severance payments under this Section 4.2 is subject to the conditions that (a) Executive executes and delivers to Company the Release within the time period specified in the Release, and the Release becomes effective, and (b) Executive complies with the restrictive covenants and post-termination obligations in Sections 9 through 12, inclusive. If Executive dies after becoming entitled to severance payments under this Section 4.2, the severance payments under this Section 4.2 will continue for the lesser of six (6) months or the remainder of the twelve (12) month period referred to above.

**4.3 Treatment of Unvested Equity Awards.** Except as otherwise agreed in writing between Company (or its successor) and Executive, if a Change of Control occurs, any outstanding Equity Award granted to Executive not yet vested immediately prior to that Change of Control, with respect to which the agreement for the Change of Control provides for assumption of that unvested Equity Award by the surviving, continuing, successor, or purchasing entity, or their parent (or provides for substitution by the surviving, continuing, successor, or purchasing entity, or their parent of an equity award with substantially equivalent value, terms, and conditions), will (or the substituted equity award will) remain in effect in accordance with its terms. If on or within twenty-four (24) months following the date of a Change of Control Executive's employment is terminated under Section 4.1 entitling Executive to receive severance payments, then any outstanding unvested Equity Awards granted to Executive prior to that Change of Control (or any equity awards substituted for those Equity Awards) will fully vest (to the extent they have not otherwise vested) as of the date that the Release becomes effective. If any performance period for an outstanding unvested Equity Award has not been completed as of the date of a Change of Control, then the target performance level for that Equity Award will be deemed to have been achieved as of the date of that Change of Control.

If any outstanding unvested Equity Award is not assumed (or substituted for) as provided in the preceding paragraph, that Equity Award will fully vest

(to the extent not otherwise vested) on the date of the Change of Control.

The provisions of this Section 4.3 are, by this Agreement, deemed to be a part of, and where necessary, amend, each Equity Award agreement of Executive and to supersede any contrary provisions in each of those agreements.

**4.4 Section 409A Compliance.** This Agreement will always be interpreted and performed in accordance with the requirements of Section 409A. The severance payments under Section 4.2 will be deemed separate payments for purposes of Section 409A, and those payments are in whole or in part intended to satisfy the "short-term deferral exception" and the "two-times pay" exception to Section 409A. Notwithstanding any provision of this Agreement to the contrary, the timing of Executive's execution of the Release will not, directly or indirectly, result in Executive designating the calendar year of payment, and if a payment that is subject to execution of the Release could be made in more than one taxable year, that payment will be made in the later taxable year. To the extent any reimbursements or in-kind benefits due to Executive under this Agreement are subject to Section 409A, (i) the expenses eligible for reimbursement or the in-kind benefits provided in any calendar year will not affect the expenses eligible for reimbursement or the in-kind benefits provided in any other calendar year, (ii) the reimbursement of an eligible expense must be made no later than the last day of the calendar year following the calendar year in which the expense was incurred, and (iii) the right to reimbursements or in-kind benefits cannot be liquidated or exchanged for any other benefit. Any action that may be taken (and, to the extent possible, any action actually taken) by Company will not be taken (or will be void and without effect) if that action violates the requirements of Section 409A. Any provision in this Agreement that is determined to violate the requirements of Section 409A will be void and without effect. In addition, any provision that is required to appear in this Agreement in accordance with Section 409A that is not expressly set forth in this Agreement will be deemed to be set forth in this Agreement, and this Agreement will be administered in all respects as if that provision were expressly set forth. Company will have the authority to delay the commencement of all or a part of the payments to Executive under Section 4 if Executive is a "key employee" of Company (as determined by Company in accordance with procedures established by Company that are consistent with Section 409A) to a date that is six (6) months and one (1) day after the Termination Date (and on that date the payments that otherwise would have been made during that six (6) month period will be made), but only to the extent that delay is required under the provisions of Section 409A to avoid imposition of additional income and other taxes, provided that Company and Executive agree to take into account any transitional rules and exemption rules available under Section 409A.

**4.5 Limitations on Severance Payments.** Except as otherwise provided below, if it is determined that any right, payment, or other benefit under this

Agreement to or for the benefit of Executive would result in Company's payment of a "parachute payment" under Code Section 280G, in whole or part when aggregated with any other right, payment, or benefit to or for the Executive under all other agreements or benefit plans of Company, then, to the extent necessary to make those payments or benefits not "parachute payments" (but only to such extent and after taking into account any reduction relating to Section 280G under any other plan, arrangement or agreement), any right, payment, or benefit under this Agreement will not become payable. The determination under this Section 4.5 will be made by a nationally recognized accounting firm selected by Company. All determinations required to be made under this Section 4.5, including whether and which of the rights, payments, or benefits are required to be reduced, the amount of that reduction, and the assumptions to be utilized in arriving at that determination, will be made by that accounting firm.

4.6 **Resignation from Positions.** Upon termination of Executive's employment with Company for any reason, Executive will resign from all positions held by Executive as an officer or director of Company and its affiliates, effective as of the Termination Date.

5. **Inventions.** By this Agreement, Executive irrevocably assigns to Company all of Executive's rights to all Subject Inventions in the United States and all other countries and the right to claim priority in the Subject Inventions.

6. **Patent Applications and Maintenance.** If Company elects to file one or more patent applications, either in the United States or in any foreign country, on a Subject Invention of which Executive is an inventor, Executive will sign all necessary documentation relating to the patent application(s), including formal assignments to Company, and will cooperate with attorneys or other Persons designated by Company to provide all information necessary for the prosecution of the patent application(s) in the United States and any foreign country. Executive also will assist Company in every proper way to maintain its patents during and following the period of employment, including, but not limited to, the performance of all lawful acts, such as the giving of testimony in any interference proceedings, infringement suits, or other litigation, as may be deemed necessary or advisable by Company.

#### 7. **Copyrights.**

7.1 **Ownership by Company.** Any Works created by Executive during Executive's performance of their duties as an employee of Company are subject to the "Work for Hire" provisions contained in Sections 101 and 201 of the United States Copyright Law, Title 17 of the United States Code. All right, title, and interest in and to copyrights in all Works that have been or will be prepared by Executive within the scope of Executive's employment with Company will be the property of Company. To the extent the provisions of Title 17 of the United States Code do not vest the copyrights to any Works in Company, Executive, by this Agreement, assigns to Company all right, title, and interest to copyrights Executive may have in the Works.

7.2 **Assistance to Company.** Executive will assist Company in every proper way to maintain Company's copyrights during and following Executive's period of employment including, but not limited to, the performance of all lawful acts, such as the giving of testimony in any infringement suits or other litigation, as may be deemed necessary or advisable by Company.

8. **Executive Delivered Materials.** If Executive delivers materials to Company, its customers, or its potential customers, or authorizes Company to deliver materials to its customers or potential customers, which materials Company will not own as a result of Sections 5 or 7.1 or otherwise, Executive, by this Agreement, grants to Company an irrevocable, nonexclusive, worldwide, royalty-free license to use, distribute (internally or externally), and prepare derivative works based on, or authorize others to use, distribute, and prepare derivative works based on, those materials.

9. **Agreement Not to Solicit or Accept Business from Customers or Customer Prospects.** During the term of Executive's employment by Company, Executive will not, either directly or indirectly, on Executive's behalf or on behalf of another Person, solicit or attempt to solicit any Company customer or actively sought potential customer for the purpose of performing a Competing Business. Further, during the Restriction Period, Executive will not, either directly or indirectly, on Executive's behalf or on behalf of another Person, solicit or attempt to solicit, or in the Restricted Territory, accept business from, any Company customer or actively sought potential customer with which Executive had Material Contact, for the purpose of performing a Competing Business.

10. **Agreement Not to Solicit Employees.** During the term of Executive's employment by Company and the Restriction Period, Executive will not, either directly or indirectly, on Executive's behalf or on behalf of another Person, solicit, divert, or hire, or attempt to solicit, divert, or hire, any Company employee or any individual who was a Company employee within ninety (90) days prior to the solicitation, diversion, or hiring.

#### 11. **Noncompetition.**

11.1 **During Employment.** During Executive's employment by Company, Executive will not work for any other Person (other than volunteering free time to a charitable organization), or engage in any other business activity that would interfere with the performance of Executive's job responsibilities or that is in violation of policies established from time to time by Company, without Company's prior written consent. During Executive's employment by Company, any money or other remuneration received by Executive for services rendered to a Company customer belongs to Company.

11.2 **Executive Acknowledgment.** Executive acknowledges that: (i) Company is engaged in the Company Business throughout the United States of America and internationally, with its principal place of business in Atlanta, Georgia, international offices in Europe and Asia, and customers throughout the United States of America and in multiple foreign countries, (ii)

Executive possesses selective and specialized skills, knowledge, learning, and abilities relating to the Company Business, and Executive's employment with Company involves further acquisition and development of such selective and specialized skills, knowledge, learning, and abilities; and (iii) Executive has and will have, during Executive's employment with Company, access to Confidential Information.

11.3 **During Restriction Period.** In light of Section 11.2 above, during the Restriction Period, Executive will not, within the Restricted Territory, without Company's prior written consent, (i) perform (including through a staffing company) any duties that are the same as or similar to the Duties, or supervise, manage, or provide consulting or advice regarding the performance of any duties by another Person that are the same as or similar to the Duties, for, or that benefit, directly or indirectly (a) any Competing Business engaged in by a company listed or described on Schedule C to this Agreement, or (b) any Company customer (but with respect to item (b) above, only to the extent that those Duties related to those of Company's computer software solutions provided by Company to its customers that were specifically included in Executive's Duties during Executive's employment with Company), or (ii) serve on the board of directors (or similar management oversight body in the case of a noncorporate legal entity) for any company listed or described on Schedule C.

## 12. Confidential Information.

12.1 **Nondisclosure and Nonuse.** Except as reasonably necessary or appropriate in connection with Executive's performance of Executive's responsibilities for Company, Executive will not disclose Confidential Information to any Person or use or exploit (including reverse engineering, decompiling, or disassembling) Confidential Information.

12.2 **Exceptions.** Notwithstanding the foregoing, the nondisclosure restriction of Section 12.1 will not apply to any data or information: (i) that has been voluntarily disclosed to the public by Company, except where that disclosure has been made by Executive or another person without authorization from Company; (ii) that has been independently developed and disclosed by others; or (iii) that otherwise has entered the public domain through lawful means.

12.3 **Duration.** Except as otherwise provided in this Section 12, the covenants of confidentiality, nonuse, and nonexploitation set forth in this Section 12 will continue throughout the term of Executive's employment with Company, and indefinitely following the Termination Date; provided that Executive's nondisclosure obligations with respect to Confidential Information will terminate at such time as the data or information is no longer Confidential Information under Section 12.2 above.

12.4 **Notice Requirement.** Executive agrees to notify Company immediately if Executive learns of any unauthorized disclosure, use, or exploitation of Confidential Information by another Person.

12.5 **Immunity for Certain Disclosures.** Despite anything to the contrary in this Agreement, and

in accordance with the U.S. Defend Trade Secrets Act of 2016: (A) An individual may not be held criminally or civilly liable under any Federal or State trade secret law for disclosure of a trade secret that (i) is made (a) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (b) solely for the purpose of reporting or investigating a suspected violation of law, or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal, and (B) an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to the individual's attorney and use the trade secret information in the court proceeding if the individual: (i) files any document containing the trade secret under seal, and (ii) does not disclose the trade secret, except pursuant to court order.

13. **Return of Property.** Upon termination of Executive's employment with Company, Executive promptly will deliver to Company all Company property in their possession or control, including, but not limited to, all keys, credit cards, security cards, computers, computer software (including computer discs and storage devices of any kind), mobile phones, and other equipment or personal items provided by Company to Executive for use during Executive's employment, together with all Company documents and all copies of those documents (hard copy and copies of all electronically stored documents), written or recorded materials, plans, records, notes, files, drawings, or papers relating to the affairs of Company, including all notes or records relating to employees of Company. If, after complying with the immediately preceding sentence, Executive has retained electronic copies of Company documents, Executive will delete all those copies, including but not limited to copies in or on Executive's emails, computers, cloud accounts, or other storage devices.

14. **Obligations to Others.** Except as may have been disclosed previously by Executive to Company, Executive represents and warrants that Executive is not or was not a party to any agreement with any other Person that purports to require Executive to assign any Work or any Invention created, conceived, or first practiced by Executive during any period of time during which Executive has been or will continue to be an employee of Company, nor is Executive subject to any law, court order, or regulation that purports to require that assignment. Further, Executive represents and warrants that Executive is not presently under any agreement that will prevent Executive from performing Executive's duties for Company, and is not in breach of any agreement with respect to any confidential information, including trade secrets, owned by any other Person. Executive will not disclose to Company any protected confidential information, including trade secrets, of any other Person.

15. **Remedies.** Executive acknowledges that the covenants contained in Sections 5 through 14, inclusive, of this Agreement are of the essence of this Agreement, that each of those covenants is reasonable and necessary to protect the business, interests, and properties of Company, and that Company will suffer



irreparable loss and damage if Executive breaches any of those covenants. Therefore, in addition to all other remedies provided by law, Company will be entitled to seek equitable relief in connection with any breach or contemplated breach of any of those covenants referred to above. Executive waives any right to assert that Company should be required to post a bond in connection with seeking equitable relief. Company's remedies under this Agreement will be in addition to all other remedies provided by law or in equity, including with respect to misappropriation of a "trade secret" as that term is defined under applicable law. The existence of any claim that Executive may have against Company will not constitute a defense to the enforcement by Company of the covenants contained in this Agreement. Executive acknowledges that Executive's breach of this Agreement may result in an immediate termination of Executive's employment.

16. **Notices.** A Party providing notice under this Agreement will provide that notice to the other Party in writing, addressed to the other Party at its address set forth on the Signature Page to this Agreement. Notices to Company will be addressed to the attention of the Chief Executive Officer; provided, however, that if Executive is the Chief Executive Officer, notices will be addressed to the attention of the Chairman of the Board. A notice provided under this Agreement will be deemed given upon receipt, if hand delivered in person or delivered by courier, or three (3) days after deposit in the U.S. mail, postage prepaid. Either Party may change its address for receipt of notices by providing notice in accordance with this Section 16.

17. **Miscellaneous.**

17.1 **Applicable Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Georgia without reference to its conflict of laws rules.

17.2 **Dispute Resolution.** Exclusive venue for any dispute arising under or in connection with this Agreement will be in the Federal District Court for the Northern District of Georgia or the Superior Court of Cobb County, Georgia. By this Agreement, each Party expressly agrees that those courts will have personal jurisdiction and venue with respect to that Party, and each Party submits to the personal jurisdiction and venue of those courts and irrevocably waives any objection based on jurisdiction, venue, or inconvenient forum.

17.3 **Entire Agreement.** This Agreement constitutes the final, full, and exclusive expression of the Parties' agreement with respect to: (i) Executive's position, responsibilities, and at-will status, compensation, prospective termination of employment, and severance, (ii) Inventions, (iii) Works, (iv) customer non-solicitation, (v) employee non-solicitation, (vi) non-competition, (vii) Confidential Information, (viii) and agreements between Executive and Persons other than Company, and this Agreement supersedes all prior agreements, understandings, writings, proposals, representations, and communications, oral or written, with respect to that subject matter, including any prior Executive Employment Agreement, Severance and Non-Competition Agreement, or similar agreement

between the Parties; provided, however, that any such prior Executive Employment Agreement or Severance and Non-Competition Agreement, or similar prior agreement, letter, or other document, will remain in effect to the limited extent necessary to enable either Party to pursue remedies against the other Party for a breach by the other Party prior to the Effective Date of the terms of that prior agreement, letter, or other document. This Agreement does not supersede the terms of any Company benefit plan or program, compensation plan, or Equity Award, or Company rules, regulations, and policies, including those contained in Company's employee handbook and other Company documents provided by Company to Executive from time to time, except to the extent inconsistent with this Agreement.

17.4 **Judicial Modifications of Provisions.** The provisions of this Agreement are severable. If for any reason a court finds that a provision in this Agreement is unenforceable in whole or in part, including if a court finds that a restrictive covenant set forth in any of Sections 9 through 12, inclusive, does not comply with applicable law in terms of the geographic area, duration, or scope of the covenant, then the court will modify that provision to the extent necessary to render the provision enforceable while, to the extent possible, preserving the original intent of the Parties. If the court declines to modify that provision, the court will sever those portions of that provision the court determines are unenforceable and enforce the remainder of the provision. If a provision is modified or severed, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

17.5 **Amendments; Waiver.** This Agreement may be amended or modified, in whole or in part, only by a written amendment signed by Executive and, on behalf of Company, by an officer of Company acting with specific authorization and approval of the Board or the Committee, and no term of this Agreement may be waived except in a written waiver signed by the Party waiving the benefit of that term (and in the case of Company, with the specific authorization of the Board or the Committee). No failure on the part of either Party to exercise any right will operate as a continuing waiver of that right or a waiver of that Party's right to exercise the same, a similar, or any other right in the future.

17.6 **Update of Schedule C.** The Parties may update Schedule C from time to time by an amendment signed by both Parties.

17.7 **Assignment; Binding Effect.** Neither Party has the right to assign its rights or delegate its duties under this Agreement; provided, however, that Company has the right to assign its rights and delegate its duties under this Agreement to a Person or Persons that purchase all or substantially all the assets or stock of Company. Any attempt to assign or delegate in violation of the foregoing restrictions will be null and void. This Agreement will bind, inure to the benefit of, and be enforceable by the Parties and their respective heirs, legal representatives, successors, and permitted assignees.

17.8 **Headings; Personal Pronouns.** The section headings in this Agreement are for reference purposes only and are not intended in any way to describe, interpret, define, or limit the extent or intent of all or any portion of this Agreement. Plural personal pronouns such as “they” and “their” sometimes are used in this Agreement as substitutes for singular personal pronouns to avoid having to use gender specific personal pronouns such as “he” or “his” or “she” or her.”

17.9 **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and both of which together will constitute one and the same instrument.

17.10 **Representation of Authority.** The official executing this Agreement on behalf of Company represents and warrants that they have the requisite authority to do so and fully bind Company.

17.11 **Employee At-Will.** Except to the extent that Executive has a separate written agreement with Company establishing or confirming that Executive is not an at-will employee, Executive is an at-will employee, whose employment with Company may be terminated with or without Cause, for any reason or no reason, by either Party, but subject to any notice

requirements and post-termination obligations of the Parties provided for in this Agreement.

17.12 **Legal Fees and Expenses.** Each Party will be responsible for its or their own costs, fees, and expenses, including attorney’s fees and expenses, in connection with any dispute arising out of the subject matter of this Agreement; provided, however, that if Executive’s employment is terminated after a Change of Control (i) by Company without Cause or (ii) by Executive as a result of a Constructive Termination, Executive will be entitled to recover from Company their reasonable attorneys’ fees and expenses incurred in connection with any dispute relating to Executive’s enforcement of their rights related to that termination to the extent that Executive prevails in a material manner with respect to that dispute; and provided further that, in connection with any legal action by Company to enforce the terms of this Agreement, if a court modifies any term, covenant, restriction, or other provision in this Agreement in a manner beneficial or less restrictive to Executive, Executive will be entitled to recover from Company their reasonable attorneys’ fees and expenses in connection with Company’s action to the extent reasonably allocable to Executive’s defense of that action as it relates to the term, covenant, restriction, or other provision so modified.

SCHEDULE B POSITION AND CERTAIN COMPENSATION INFORMATION

Name of Executive: [\_\_\_\_\_]

Executive's Direct Supervisor: [\_\_\_\_\_]

Executive's Job Title: [\_\_\_\_\_]

Executive's Work Location: [\_\_\_\_\_]

Base Salary (Semimonthly): [\_\_\_\_\_]; (Annualized): [\_\_\_\_\_]

Bonus Target Amount: [\_\_\_\_\_]

Vacation Days (Number to Be Accrued per Calendar Year): [\_\_\_\_\_]





**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Eddie Capel, certify that:

1. I have reviewed this quarterly report on Form 10-Q of the registrant;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

- (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
- (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
- (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
- (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 25<sup>th</sup> day of October, 2018

/s/ Eddie Capel

*Eddie Capel*

\_\_\_\_\_  
President and Chief Executive Officer

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Dennis B. Story, certify that:

1. I have reviewed this quarterly report on Form 10-Q of the registrant;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

- (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
- (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
- (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
- (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 25<sup>th</sup> day of October, 2018

*/s/ Dennis B. Story*

*Dennis B. Story*

Executive Vice President, Chief Financial Officer and  
Treasurer

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

This Certificate is being delivered pursuant to the requirements of Section 1350 of Chapter 63 (Mail Fraud) of Title 18 (Crimes and Criminal Procedures) of the United States Code and shall not be relied on by any person for any other purpose.

The undersigned, who are the Chief Executive Officer and Chief Financial Officer, respectively, of Manhattan Associates, Inc. (the "Company"), hereby each certify that, to the undersigned's knowledge:

The Quarterly Report on Form 10-Q of the Company for the quarterly period ended September 30, 2018 (the "Report"), which accompanies this Certification, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and all information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated this 25<sup>th</sup> day of October, 2018

/s/ Eddie Capel

*Eddie Capel*

President and Chief Executive Officer

/s/ Dennis B. Story

*Dennis B. Story*

Executive Vice President, Chief Financial Officer and  
Treasurer

In accordance with SEC Release No. 34-47986, this Exhibit is furnished to the SEC as an accompanying document and is not deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933. A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the registrant and will be retained by the registrant and furnished to the Securities and Exchange Commission or its staff upon request.



