

REFINITIV

DELTA REPORT

10-Q

EGAN - EGAIN CORP

10-Q - DECEMBER 31, 2023 COMPARED TO 10-Q - SEPTEMBER 30, 2023

The following comparison report has been automatically generated

TOTAL DELTAS 1727

CHANGES 190

DELETIONS 273

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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**, **December 31**, 2023

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 No. 001-35314

eGain Corporation

(Exact name of registrant as specified in its charter)

Delaware

77-0466366

(State or other jurisdiction
of incorporation or organization)

(I.R.S. Employer

Identification No.)

1252 Borregas Avenue, Sunnyvale, CA

94089

(Address of principal executive offices)

(Zip Code)

(408) 636-4500

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

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

Title of Each Class

Trading Symbol(s)

Name of each exchange on which registered

Common Stock, par value \$0.001 per share

EGAN

The Nasdaq Stock Market, LLC

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

Yes No

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

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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

Accelerated Filer

Non-accelerated Filer

Smaller Reporting Company

Emerging Growth Company

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act):

Yes No

The number of outstanding shares of the registrant's common stock, par value \$0.001 per share, was **31,485,186** **31,202,603** as of **November 2, 2023** **February 5, 2024**.

[Table of Contents](#)

EGAIN CORPORATION
QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTERLY PERIOD ENDED ~~SEPTEMBER 30, DECEMBER 31, 2023~~

TABLE OF CONTENTS

	<u>Page</u>
PART I. FINANCIAL INFORMATION	
Item 1. Financial Statements (Unaudited)	2
Condensed Consolidated Balance Sheets as of <u>September 30, 2023</u> <u>December 31, 2023</u> and <u>June 30, 2023</u>	2
Condensed Consolidated Statements of Operations for the Three and Six Months Ended <u>September 30, 2023</u> <u>December 31, 2023</u> and <u>2022</u>	3
Condensed Consolidated Statements of Comprehensive Income (Loss) for the Three and Six Months Ended <u>September 30, 2023</u> <u>December 31, 2023</u> and <u>2022</u>	4
Condensed Consolidated Statements of Stockholders' Equity for the Three and Six Months Ended <u>September 30, 2023</u> <u>December 31, 2023</u> and <u>2022</u>	5
Condensed Consolidated Statements of Cash Flows for the Three Six Months Ended <u>September 30, 2023</u> <u>December 31, 2023</u> and <u>2022</u>	69
Notes to Condensed Consolidated Financial Statements	710
Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations	2124
Item 3. Quantitative and Qualitative Disclosures about Market Risk	3538
Item 4. Controls and Procedures	3539
PART II. OTHER INFORMATION	3740
Item 1. Legal Proceedings	3740
Item 1A. Risk Factors	3740
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds	5457
Item 5. OtherInformation	5457
Item 6. Exhibits	5558
Signatures	5659

[Table of Contents](#)

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

EGAIN CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except par value data)
(unaudited)

	September 30, 2023	June 30, 2023	December 31, 2023	June 30, 2023
ASSETS				
Current assets:				
Cash and cash equivalents	\$ 79,827	\$ 73,201	\$ 86,833	\$ 73,201
Restricted cash	7	7	7	7
Accounts receivable, less provision for credit losses of \$121 and \$237 as of September 30, 2023 and June 30, 2023, respectively	18,420	31,569		
Accounts receivable, less provision for credit losses of \$109 and \$237 as of December 31, 2023 and June 30, 2023, respectively			14,271	31,569
Costs capitalized to obtain revenue contracts, net	1,231	1,317	1,282	1,317
Prepaid expenses	2,578	2,466	2,157	2,466
Other current assets	1,304	1,268	1,175	1,268
Total current assets	<u>103,367</u>	<u>109,828</u>	<u>105,725</u>	<u>109,828</u>
Property and equipment, net	551	633	561	633
Operating lease right-of-use assets	2,497	2,797	2,200	2,797
Costs capitalized to obtain revenue contracts, net of current portion	1,938	2,318	2,003	2,318
Goodwill	13,186	13,186	13,186	13,186
Other assets, net	1,427	1,355	1,768	1,355
Total assets	<u>\$ 122,966</u>	<u>\$ 130,117</u>	<u>\$ 125,443</u>	<u>\$ 130,117</u>
LIABILITIES AND STOCKHOLDERS' EQUITY				
Current liabilities:				
Accounts payable	\$ 853	\$ 2,044	\$ 1,777	\$ 2,044
Accrued compensation	5,931	7,697	5,842	7,697
Accrued liabilities	4,406	5,387	4,207	5,387
Operating lease liabilities	689	832	587	832
Deferred revenue	41,959	47,762	40,880	47,762
Total current liabilities	<u>53,838</u>	<u>63,722</u>	<u>53,293</u>	<u>63,722</u>
Deferred revenue, net of current portion	2,413	2,101	2,991	2,101
Operating lease liabilities, net of current portion	1,617	1,762	1,470	1,762
Other long-term liabilities	833	836	896	836

Total liabilities	58,701	68,421	58,650	68,421
Commitments and contingencies (Note 6)				
Stockholders' equity:				
Common stock, par value \$0.001 - authorized: 60,000 shares; issued: 32,269 and 32,268 shares; outstanding: 31,400 and 31,482 shares as of September 30, 2023 and June 30, 2023, respectively	32	32		
Common stock, par value \$0.001 - authorized: 60,000 shares; issued: 32,462 and 32,268; outstanding: 31,202 and 31,482 shares as of December 31, 2023 and June 30, 2023, respectively			32	32
Additional paid-in capital	402,299	401,087	404,320	401,087
Treasury stock, at cost: 869 and 786 common shares as of September 30, 2023 and June 30, 2023, respectively	(6,280)	(5,763)		
Treasury stock, at cost: 1,260 and 786 shares of common stock as of December 31, 2023 and June 30, 2023, respectively			(8,778)	(5,763)
Notes receivable from stockholders	(64)	(97)	(20)	(97)
Accumulated other comprehensive loss	(2,877)	(2,122)	(2,101)	(2,122)
Accumulated deficit	(328,845)	(331,441)	(326,660)	(331,441)
Total stockholders' equity	64,265	61,696	66,793	61,696
Total liabilities and stockholders' equity	\$ 122,966	\$ 130,117	\$ 125,443	\$ 130,117

See accompanying notes to condensed consolidated financial **statements** **statements**.

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)
(unaudited)

	Three Months Ended	
	September 30,	
	2023	2022
Revenue:		
Subscription	\$ 22,323	\$ 22,923
Professional services	1,853	1,840
Total revenue	24,176	24,763
Cost of revenue:		
Cost of subscription	5,047	3,978
Cost of professional services	1,791	2,304
Total cost of revenue	6,838	6,282
Gross profit	17,338	18,481

Operating expenses:			
Research and development		6,632	6,874
Sales and marketing		6,104	9,459
General and administrative		3,186	2,818
Total operating expenses		15,922	19,151
Income (loss) from operations		1,416	(670)
Interest income		949	286
Other income, net		610	810
Income before income tax provision		2,975	426
Income tax provision		(379)	(442)
Net income (loss)	\$	2,596	\$ (16)
Per share information:			
Earnings (loss) per share:			
Basic	\$	0.08	\$ (0.00)
Diluted	\$	0.08	\$ (0.00)
Weighted-average shares used in computation:			
Basic		31,479	31,933
Diluted		32,136	31,933
		Three Months Ended	Six Months Ended
		December 31,	
		2023	2022
Revenue:		2023	2022
Subscription	\$	21,996	\$ 23,614
Professional services		1,819	1,986
Total revenue		23,815	25,600
Cost of revenue:			
Cost of subscription		5,109	4,424
Cost of professional services		1,881	2,328
Total cost of revenue		6,990	6,752
Gross profit		16,825	18,848
Operating expenses:			
Research and development		6,660	7,188
Sales and marketing		5,349	8,895
General and administrative		2,391	2,552
Total operating expenses		14,400	18,635
Income (loss) from operations		2,425	213
Interest income		982	529
Other (expense) income, net		(697)	(545)
Income before income tax provision		2,710	197
Income tax provision		(525)	(301)
Net income (loss)	\$	2,185	\$ (104)
Per share information:			
Earnings (loss) per share:			
Basic	\$	0.07	\$ (0.00)
Diluted	\$	0.07	\$ (0.00)
Weighted-average shares used in computation:			
Basic		31,179	32,018
Diluted		31,843	32,018

See accompanying notes to condensed consolidated financial statements.

3

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(in thousands)
(unaudited)

	Three Months Ended			
	September 30,			
	2023	2022	2023	2022
Net income (loss)	\$ 2,596	\$ (16)		
Other comprehensive income (loss), net of taxes:				
Foreign currency translation adjustments	(755)	(1,151)		
Total comprehensive income (loss)	\$ 1,841	\$ (1,167)		
	Three Months Ended		Six Months Ended	
	December 31,		December 31,	
	2023	2022	2023	2022
Net income (loss)	\$ 2,185	\$ (104)	\$ 4,781	\$ (120)
Other comprehensive income (loss), net of taxes:				
Foreign currency translation adjustments	776	945	21	(206)
Total comprehensive income (loss)	\$ 2,961	\$ 841	\$ 4,802	\$ (326)

See accompanying notes to condensed consolidated financial statements.

4

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(in thousands)
(unaudited)

Three Months Ended September 30, 2023												
	Notes Receivable From Stockholders										Accumulated Other Comprehensive Loss Deficit Stockholders' Total Equity	
	Common Stock		Additional Paid-in Capital		Treasury Stock Shares Amount							
	Shares	Amount	Capital		Shares	Amount	Stockholders		Loss	Deficit		
Balances as of June 30, 2023	31,482	\$ 32	\$ 401,087		786	\$(5,763)	\$ (97)	\$ (2,122)	\$ (331,441)	\$ 61,696		
Repayment of notes receivable from stockholders	—	—	—		—	—	33	—	—	—	33	
Issuance of common stock upon exercise of stock options	1	—	4		—	—	—	—	—	—	4	
Repurchase of common stock	(83)	—	—		83	(517)	—	—	—	—	(517)	
Stock-based compensation	—	—	1,208		—	—	—	—	—	—	1,208	
Foreign currency translation adjustments	—	—	—		—	—	—	(755)	—	—	(755)	
Net income	—	—	—		—	—	—	—	2,596	2,596	2,596	
Balances as of September 30, 2023	31,400	\$ 32	\$ 402,299		869	\$(6,280)	\$ (64)	\$ (2,877)	\$ (328,845)	\$ 64,265		
Three Months Ended December 31, 2023												
	Notes Receivable From Stockholders										Accumulated Other Comprehensive Loss Deficit Stockholders' Total Equity	
	Common Stock		Additional Paid-in Capital		Treasury Stock Shares Amount		From Stockholders		Comprehensive Loss			
	Shares	Amount	Capital		Shares	Amount	Stockholders		Loss	Deficit		
Balances as of September 30, 2023	31,400	\$ 32	\$ 402,299		869	\$(6,280)	\$ (64)	\$ (2,877)	\$ (328,845)	\$ 64,265		
Repayment of stockholder notes	—	—	—		—	—	44	—	—	—	44	
Issuance of common stock upon exercise of stock options	123	—	409		—	—	—	—	—	—	409	
Issuance of common stock in connection with employee stock purchase plan	70	—	417		—	—	—	—	—	—	417	
Repurchase of common stock	(391)	—	—		391	(2,498)	—	—	—	—	(2,498)	
Stock-based compensation	—	—	1,195		—	—	—	—	—	—	1,195	
Foreign currency translation adjustments	—	—	—		—	—	—	776	—	—	776	
Net income	—	—	—		—	—	—	—	2,185	2,185	2,185	
Balances as of December 31, 2023	31,202	\$ 32	\$ 404,320		1,260	\$(8,778)	\$ (20)	\$ (2,101)	\$ (326,660)	\$ 66,793		

See accompanying notes to condensed consolidated financial statements.

[Table of Contents](#)

Three Months Ended September 30, 2022								
	Notes							
	Common Stock		Additional		Receivable		Other	
	Shares	Amount	Paid-in	Capital	From	Stockholders	Comprehensive	Accumulated
Balances as of June 30, 2022	31,930	\$ 32		\$ 393,157		\$ (95)	\$ (2,687)	\$ (333,550)
Issuance of common stock upon exercise of stock options	7	—		30		—	—	—
Stock-based compensation	—	—		2,065		—	—	2,065
Foreign currency translation adjustments	—	—		—		—	(1,151)	—
Net loss	—	—		—		—	—	(16)
Balances as of September 30, 2022	31,937	\$ 32		\$ 395,252		\$ (95)	\$ (3,838)	\$ (333,566)
Three Months Ended December 31, 2022								
	Notes							
	Common Stock		Additional		Receivable		Other	
	Shares	Amount	Paid-in	Capital	From	Stockholders	Comprehensive	Accumulated
Balances as of September 30, 2022	31,937	\$ 32		\$ 395,252		\$ (95)	\$ (3,838)	\$ (333,566)
Interest on stockholder notes	—	—		—		(1)	—	—
Issuance of common stock upon exercise of stock options	122	—		435		—	—	—
Issuance of common stock in connection with employee stock purchase plan	72	—		540		—	—	540
Stock-based compensation	—	—		1,771		—	—	1,771
Foreign currency translation adjustments	—	—		—		—	945	—
Net loss	—	—		—		—	—	(104)
Balances as of December 31, 2022	32,131	\$ 32		\$ 397,998		\$ (96)	\$ (2,893)	\$ (333,670)

See accompanying notes to condensed consolidated financial statements.

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (cont.)
 (in thousands)
 (unaudited)

	Six Months Ended December 31, 2023										
	Common Stock		Additional Paid-in Capital		Treasury Stock		Notes Receivable From Stockholders		Other Comprehensive Loss		Total Stockholders' Equity
Balances as of June 30, 2023	31,482	\$ 32	\$ 401,087		786	\$ (5,763)	\$ (97)	\$ (2,122)	\$ (331,441)	\$ 61,696	
Repayment of stockholder notes	—	—	—		—	—	77	—	—	—	77
Issuance of common stock upon exercise of stock options	124	—	413		—	—	—	—	—	—	413
Issuance of common stock in connection with employee stock purchase plan	70	—	417		—	—	—	—	—	—	417
Repurchase of common stock	(474)	—	—	474	(3,015)		—	—	—	—	(3,015)
Stock-based compensation	—	—	2,403		—	—	—	—	—	—	2,403
Foreign currency translation adjustments	—	—	—	—	—	—	—	21	—	—	21
Net income	—	—	—	—	—	—	—	—	4,781	4,781	
Balances as of December 31, 2023	31,202	\$ 32	\$ 404,320	1,260	\$ (8,778)	\$ (20)	\$ (2,101)	\$ (326,660)	\$ 66,793		

See accompanying notes to condensed consolidated financial statements.

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (cont.)
 (in thousands)

(unaudited)

	Six Months Ended December 31, 2022						
			Notes				
	Common Stock		Paid-in	Receivable	From	Accumulated Other	Total
	Shares	Amount	Capital	Stockholders		Loss	Stockholders'
Balances as of June 30, 2022	31,930	\$ 32	\$ 393,157	\$ (95)	\$ (2,687)	\$ (333,550)	\$ 56,857
Interest on stockholder notes	—	—	—	(1)	—	—	(1)
Issuance of common stock upon exercise of stock options	129	—	465	—	—	—	465
Issuance of common stock in connection with employee stock purchase plan	72	—	540	—	—	—	540
Stock-based compensation	—	—	3,836	—	—	—	3,836
Foreign currency translation adjustments	—	—	—	—	(206)	—	(206)
Net loss	—	—	—	—	—	(120)	(120)
Balances as of December 31, 2022	<u>32,131</u>	<u>\$ 32</u>	<u>\$ 397,998</u>	<u>\$ (96)</u>	<u>\$ (2,893)</u>	<u>\$ (333,670)</u>	<u>\$ 61,371</u>

See accompanying notes to condensed consolidated financial statements.

58

[Table of Contents](#)

EGAIN CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(unaudited)

	Three Months Ended	
	September 30,	
	2023	2022
Cash flows from operating activities:		
Net income (loss)	\$ 2,596	\$ (16)
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization of costs capitalized to obtain revenue contracts	500	375
Amortization of right-of-use assets	294	272
Depreciation and amortization	107	126
(Recovery of) provision for credit losses	(110)	84
Deferred income taxes	(45)	14
Stock-based compensation	1,208	2,065

Changes in operating assets and liabilities:		
Accounts receivable	13,100	1,530
Costs capitalized to obtain revenue contracts	(89)	(191)
Prepaid expenses	(131)	(824)
Other current assets	(44)	355
Other non-current assets	(31)	12
Accounts payable	(1,182)	249
Accrued compensation	(1,706)	(1,375)
Accrued liabilities	(944)	(1,463)
Deferred revenue	(5,124)	(151)
Operating lease liabilities	(284)	(255)
Other long-term liabilities	16	(47)
Net cash provided by operating activities	<u>8,131</u>	<u>760</u>
Cash flows from investing activities:		
Purchases of property and equipment	(32)	(120)
Net cash used in investing activities	<u>(32)</u>	<u>(120)</u>
Cash flows from financing activities:		
Proceeds from exercise of stock options	4	30
Repurchases of common stock	(517)	—
Repayment of notes receivable from stockholders	33	—
Net cash (used in) provided by financing activities	<u>(480)</u>	<u>30</u>
Effect of change in exchange rates on cash and cash equivalents	(993)	(1,319)
Net increase in cash, cash equivalents and restricted cash	6,626	(649)
Cash, cash equivalents and restricted cash at beginning of period	73,208	72,180
Cash, cash equivalents and restricted cash at end of period	<u>\$ 79,834</u>	<u>\$ 71,531</u>
Supplemental cash flow disclosures:		
Cash paid for taxes	\$ 863	\$ 489
Non-cash items:		
Purchases of equipment through trade accounts payable	\$ 18	\$ 30

	Six Months Ended	
	December 31,	
	2023	2022
Cash flows from operating activities:		
Net income (loss)	\$ 4,781	\$ (120)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Amortization of costs capitalized to obtain revenue contracts	845	770
Amortization of right-of-use assets	596	552
Depreciation and amortization	204	251
(Recovery of) provision for credit losses	(2)	101
Deferred income taxes	(251)	(202)
Stock-based compensation	2,403	3,836
Loss on disposal of property and equipment	—	(2)
Changes in operating assets and liabilities:		
Accounts receivable	17,333	10,353
Costs capitalized to obtain revenue contracts	(486)	(409)
Prepaid expenses	308	470

Other current assets	88	270
Other non-current assets	(166)	30
Accounts payable	(267)	(509)
Accrued compensation	(1,856)	(2,241)
Accrued liabilities	(1,185)	175
Deferred revenue	(6,048)	(4,638)
Operating lease liabilities	(536)	(516)
Other long-term liabilities	65	4
Net cash provided by operating activities	<u>15,826</u>	<u>8,175</u>
Cash flows from investing activities:		
Purchases of property and equipment	(135)	(293)
Net cash used in investing activities	<u>(135)</u>	<u>(293)</u>
Cash flows from financing activities:		
Proceeds from exercise of stock options	413	465
Proceeds from employee stock purchase plan	417	540
Repurchases of common stock	(3,015)	—
Repayment of stockholder notes	77	—
Net cash (used in) provided by financing activities	<u>(2,108)</u>	<u>1,005</u>
Effect of change in exchange rates on cash and cash equivalents	49	(193)
Net increase in cash, cash equivalents and restricted cash	13,632	8,694
Cash, cash equivalents and restricted cash at beginning of period	73,208	72,180
Cash, cash equivalents and restricted cash at end of period	<u>\$ 86,840</u>	<u>\$ 80,874</u>
Supplemental cash flow disclosures:		
Cash paid for taxes	\$ 972	\$ 1,230

See accompanying notes to condensed consolidated financial statements.

69

[Table of Contents](#)

EGAIN CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
 (unaudited)

1. SUMMARY OF BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES

Organization and Nature of Business

eGain Corporation (eGain, the Company, our, we or us) automates customer engagement with an innovative knowledge hub, powered by conversational artificial intelligence (AI) and analytics. We sell mostly to large enterprises across financial services, telecommunications, retail, government, healthcare, and utilities seeking to better serve customers at scale while coping with content silos, process complexity, and regulatory compliance. With our mantra of **AX + BX + CX = DX™**, we guide clients to effortless digital experience (DX) by holistically optimizing agent experience (AX), business experience (BX), and customer experience (CX). Leading brands use eGain's cloud software to improve customer satisfaction, empower agents, reduce service cost, and boost sales. We are headquartered in the United States. We also operate in the United Kingdom and India.

Fiscal Year

The Company fiscal year ends on June 30. References to fiscal year 2024 refers to fiscal year ending June 30, 2024.

Basis of Presentation

The accompanying condensed consolidated balance sheet as of **September 30, 2023** **December 31, 2023** and the condensed consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for the three **and six** months ended **September 30, 2023** **December 31, 2023** and 2022 are unaudited. The condensed consolidated balance sheet as of June 30, 2023 was derived from audited consolidated financial statements as of that date but does not include all the information and footnotes required by GAAP for complete financial statements.

Certain information and footnote disclosures, normally included in consolidated financial statements prepared in accordance with generally accepted accounting principles (GAAP), have been condensed or omitted pursuant to such rules and regulations although we believe that the disclosures made are adequate to make the information not misleading. In our opinion, the unaudited condensed consolidated financial statements reflect all adjustments (consisting only of normal recurring adjustments) necessary for a fair presentation of our financial position, results of operations, and cash flows for the periods presented.

These condensed consolidated financial statements and notes should be read in conjunction with our audited consolidated financial statements and accompanying notes for the fiscal year ended June 30, 2023, included in our Annual Report on Form 10-K. The results of our operations for the interim periods presented are not necessarily indicative of results that may be expected for any other interim period or for the full fiscal year ending June 30, 2024.

Principles of Consolidation

We prepared the condensed consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission (the SEC) and included the accounts of our wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated.

The preparation of financial statements requires us to make estimates and assumptions in the condensed consolidated financial statements and accompanying notes. Actual results could differ significantly from estimates. We make estimates

[Table of Contents](#)

that we believe to be reasonable based on historical experience and other assumptions. Significant estimates and assumptions made by management include the following:

- Standalone selling price (SSP) of performance obligations for contracts with multiple performance obligations;
- Estimate of variable consideration for performance obligations in connection with Topic 606;
- Period of benefit associated with capitalized costs to obtain revenue contracts;
- Valuation, measurement and recognition of current and deferred income taxes;
- Fair value of stock-based awards; and
- Lease term and incremental borrowing rate for lease liabilities.

Recent Accounting Pronouncements

Pronouncements Recently Adopted

In June 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016-13, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (ASU 2016-13), which requires measurement and recognition of expected credit losses for financial assets held at the reporting date based on internal information, external information, or a combination of both relating to past events, current conditions, and reasonable and supportable forecasts. ASU No. 2016-13 replaces the existing incurred loss impairment model with a forward-looking expected credit loss model, which will result in earlier recognition of credit losses. We adopted this guidance as of our first quarter of fiscal year 2024 with no material impact on our condensed consolidated financial statements.

Revenue Recognition

Revenue Recognition Policy

Our revenue is comprised of two categories including subscription and professional services. Subscription includes SaaS revenue and legacy revenue. SaaS revenue includes cloud delivery arrangements, term licenses, embedded original equipment manufacturer (OEM) royalties, and associated support. Legacy revenue is associated with license, maintenance, and support contracts on perpetual license arrangements that we no longer sell. Professional services **includes** **include** consulting, implementation, training, and managed services.

Significant Judgment Applied in the Determination of Revenue Recognition

We enter into contractual arrangements with customers that may include promises to transfer multiple services, such as subscription, support, and professional services. With respect to our business, a performance obligation is a promise to transfer a service to a customer that is distinct. Significant judgment is required to determine whether services are distinct performance obligations that should be accounted for separately or combined as one unit of accounting. Additionally, significant judgment is required to determine the timing of revenue recognition.

We allocate the transaction price to each performance obligation based on relative standalone selling price basis (SSP). The SSP is the price at which we would sell a promised service separately to one of our customers. Judgment is required to determine the SSP for each distinct performance obligation.

We determine the SSP by considering our pricing objectives in relation to market demand. Consideration is placed based on our history of discounting prices, size and volume of transactions involved, customer demographics and geographic locations, price lists, contract prices, and our market strategy.

811

[Table of Contents](#)

Determination of Revenue Recognition

Under Topic 606, we recognize revenue upon the transfer of control of promised services to our customers in the amount that is commensurate with the consideration that we expect to receive in exchange for those services. If consideration includes a variable amount in the arrangement, such as service level credits or contingent fees, then we include an estimate of the amount that we expect to receive for the total transaction price.

The amount of revenue that we recognize is based on (i) identifying the contract with a customer; (ii) identifying the performance obligations in the contract; (iii) determining the transaction price; (iv) allocating the transaction price to the performance obligations in the contract on a relative SSP basis; and (v) recognizing revenue when, or as, we satisfy each performance obligation in the contract typically through delivery or when control is transferred to the customer.

Subscription Revenue

The following customer arrangements are recognized ratably over the contract term as the performance obligations are delivered:

- Cloud delivery arrangements;
- Maintenance and support arrangements; and
- Term licenses which incorporate on-premise software licenses and a subscription to substantial cloud functionalities.

For contracts involving distinct software licenses, the license performance obligation is satisfied at a point in time when control is transferred to the customer.

We typically invoice our customers in advance upon execution of the contract or subsequent renewals with payment terms between 30 and 45 days. Invoiced amounts are recorded in accounts receivable, deferred revenue or revenue, depending if control transferred to our customers based on each arrangement.

The Company has a royalty revenue agreement with a customer related to the Company's embedded intellectual property. Under the terms of the agreement, the customer is to provide to the Company a combination of fixed fee, per agent fee, for each software license sold containing the embedded software. These embedded OEM royalties are included as subscription revenue. Under Topic 606 revenue guidance, since these arrangements are for usage-based licenses of intellectual property, for which the guidance in paragraph ASC 606-10-55-65 applies, the Company estimates revenue recognized only as the performance obligation of the OEM royalties has been satisfied or partially satisfied. Differences between actual results and estimated amounts are adjusted in the following period as such sales are reported by the customer with a quarter in arrears.

Professional Services Revenue

Professional services revenue includes system implementation, consulting, training, and managed services. The transaction price is allocated to various performance obligations based on their SSP. Revenue allocated to each performance obligation is recognized at the earlier of satisfaction of discrete performance obligations, or as work is performed on a time and material basis. Managed services include a comprehensive set of processes and activities that range from implementation to monitoring the evolution and support of eGain solutions in a company. Our consulting and implementation service contracts are bid either on a time-and-material basis or on a fixed-fee basis. Managed services contracts are bid on a time-and-material basis. Fixed fees are generally paid upon milestone billing or customer acceptance at pre-determined points in the contract. Amounts that have been invoiced are recorded in accounts receivable and in deferred revenue or revenue, depending on whether transfer of control to customers has occurred.

Training revenue that meets the criteria to be accounted for separately is recognized when training is provided.

912

[Table of Contents](#)

Contracts with Multiple Performance Obligations

The Company enters into contracts that can include various combinations of subscriptions, professional services and maintenance and support, which are generally distinct and accounted for as separate performance obligations. For contracts with multiple performance obligations, the Company allocates the transaction price of the contract to each performance obligation on a relative basis using the respective SSP for each performance obligation.

Costs Capitalized to Obtain Revenue Contracts, Net

Under Topic 606, we capitalize incremental costs of obtaining non-cancelable subscription and support revenue contracts. The capitalized amounts consist primarily of sales commissions paid to our direct sales force. Capitalized amounts also include (i) amounts paid to employees other than the direct sales force who earn incentive payouts under annual compensation plans that are tied to the value of contracts acquired and (ii) the associated payroll taxes and fringe benefit costs associated with the payments to our employees.

Costs capitalized related to new revenue contracts are generally deferred and amortized on a straight-line basis over a period of benefit that we estimate to be five years. We determine the period of benefit by taking into consideration the historical and expected durations of our customer contracts, the expected useful lives of our technologies, and other factors. Commissions for renewal contracts relating to our cloud-based arrangements are expensed when incurred, as we do not consider renewal contracts to be commensurate with initial customer contracts. Historically, any commission associated with renewals have been immaterial. Amortization of costs to obtain revenue contracts is included as a component of sales and marketing expenses in our condensed consolidated statements of operations.

During the three and six months ended **September 30, 2023 and 2022, December 31, 2023**, we capitalized **\$89,000 \$397,000** and **\$191,000 \$486,000** of costs to obtain revenue contracts, respectively, and amortized **\$500,000 \$345,000** and **\$375,000 \$845,000** to sales and marketing expense, respectively.

During the three and six months ended December 31, 2022, we capitalized \$218,000 and \$409,000 of costs to obtain revenue contracts, respectively, and amortized \$395,000 and \$770,000 to sales and marketing expense, respectively.

Capitalized costs to obtain revenue contracts, net were **\$3.2 million \$3.3 million** and \$3.6 million as of **September 30, 2023 December 31, 2023** and June 30, 2023, respectively, on our condensed consolidated balance sheets.

Deferred Revenue

Deferred revenue primarily consists of payments received in advance of revenue recognition from cloud, term and ratable licenses, and maintenance and support services and is recognized as the revenue recognition criteria are met. We generally invoice customers in annual or quarterly installments. The deferred revenue balance does not represent the total contract value of annual or multi-year, non-cancelable cloud or maintenance and support agreements. Deferred revenue is influenced by several factors, including seasonality, the compounding effects of renewals, invoice duration, invoice timing, and new business linearity within the quarter financial reporting period.

Segment Information

We operate in one segment - the development, license, implementation, and support of our customer service infrastructure software solutions. Operating segments are identified as components of an enterprise for which discrete financial information is available and regularly reviewed by our chief operating decision-maker in order to make decisions about resources to be allocated to the segment and assess its performance. Our chief operating decision-makers under ASC 280, Segment Reporting, are our executive management team. Our chief operating decision-makers review financial information presented on a consolidated basis for purposes of making operating decisions and assessing financial performance.

Our revenue is derived from North America and combined Europe, Middle East, and Africa (EMEA) and is disclosed in Note 2. However, we incur operating expenses in the North America, EMEA, and Asia Pacific regions.

1013

[Table of Contents](#)

The following table presents our income (loss) from operations among our three operating regions (in thousands):

	Three Months Ended		Three Months Ended		Six Months Ended	
	September 30,		December 31,		December 31,	
	2023	2022	2023	2022	2023	2022
Income (loss) from operations						
Income (loss) from operations:						
North America	\$ 1,655	\$ (551)	\$ 2,299	\$ (69)	\$ 3,954	\$ (620)
Europe, Middle East, & Africa	1,373	1,522	1,818	2,014	3,191	3,536
Asia Pacific	(1,612)	(1,641)	(1,692)	(1,732)	(3,304)	(3,373)
Income (loss) from operations	<u>\$ 1,416</u>	<u>\$ (670)</u>	<u>\$ 2,425</u>	<u>\$ 213</u>	<u>\$ 3,841</u>	<u>\$ (457)</u>

The following table presents our long-lived assets, corresponding to our geographic areas are as follows (in thousands):

	September 30,		June 30,		December 31, June 30,	
	2023	2023	2023	2023	2023	2023
Long-lived assets:						
North America	\$ 317	\$ 358	\$ 282	\$ 358		
Europe, Middle East, & Africa	122	131	115	131		
Asia Pacific	112	144	164	144		
Long-lived assets	<u>\$ 551</u>	<u>\$ 633</u>	<u>\$ 561</u>	<u>\$ 633</u>		

For the purposes of entity-wide geographic area disclosures, long-lived assets consist of computers and equipment, furniture and fixtures, and leasehold improvements, net of accumulated depreciation and amortization. These items are included in property and equipment, net, on the accompanying Company's condensed consolidated balance sheets.

Concentration of Credit Risk and Significant Customers

Our financial instruments that are exposed to concentrations of credit risk include cash and cash equivalents, restricted cash, and accounts receivable. We complement direct sales with resell partnerships based on product connectors into cloud contact center platforms. We also partner with system integrators and managed service providers. Two customers, One customer, who are also our partners, a partner, accounted for 17% 19% and 11% 18% of total revenue during the three and six months ended December 31, 2023, respectively. The same partner and a different partner, accounted for 19% and 10%, respectively, of total revenue during the three months ended September 30, 2023. One customer, who is also our partner, accounted for December 31, 2022 and 21% and 8%, respectively, for 24% of total revenue during the three six months ended September 30, 2022 December 31, 2022. Two and three different three customers accounted for more than 10% of our gross accounts receivable less provision for credit losses balance as of September 30, 2023 and 2022, respectively. December 31, 2023.

Accounts Receivable and Provision for Credit Losses

We extend unsecured credit to our customers on a regular basis. Our accounts receivable are derived from revenue earned from customers and are not interest bearing. We also maintain provision for credit losses to reserve for potential uncollectible trade receivables. We review our trade receivables by aging category to identify specific customers with known disputes or collectability issues. We exercise judgment when determining the adequacy of these reserves as we evaluate historical bad debt trends, general economic conditions in the U.S. and internationally, and changes in customer financial conditions. We write off a receivable after collection efforts have been exhausted and the amount is deemed uncollectible. Recovered written off receivables are recorded as they occur.

In certain revenue contracts, contractual billings do not coincide with revenue recognized on the contract. Unbilled accounts receivables are recorded when revenue recognized on the contract exceeds billings, pursuant to contract provisions, and become billable upon certain criteria being met. Unbilled accounts receivables, for which the Company has the unconditional right to consideration, totaled \$1.1 million \$1.2 million and \$1.7 million as of September 30, 2023, December 31, 2023 and June 30, 2023, respectively, and are included in the accounts receivable, less provision for credit losses, balance on the accompanying condensed consolidated balance sheets.

1114

Table of Contents

As of fiscal year 2024, we adopted ASU 2016-13 - Measurement of Credit Losses on Financial Instruments with no material impact on our condensed consolidated financial statements.

Stock-Based Compensation

We account for stock-based compensation in accordance with ASC 718, Compensation—Stock Compensation. Under the fair value recognition provisions of ASC 718, stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as expense over the vesting period, net of expected forfeitures. Stock-based compensation expense consists of expenses for stock options, restricted stock units (RSUs), and discounted employee common stock granted under our Amended and Restated 2005 Management Stock Option Plan, our Amended and Restated 2005 Stock Incentive Plan, and our 2017 Employee Stock Purchase Plan (ESPP).

The ESPP provides that eligible employees may purchase the Company's common stock through payroll deductions at a price equal to 85% of the lower of the fair market value at the entry date of the applicable offering period or at the end of each applicable purchasing

period. The offering period, meaning a period with respect to which the right to purchase shares of our common stock may be granted under the ESPP, will not exceed twenty-seven months and consist of a series of six-month purchase periods. Eligible employees may join the ESPP at the beginning of any six-month purchase period. Under the terms of the ESPP, employees can choose to have between 1% and 15% of their base earnings withheld to purchase the Company's common stock.

Determining the fair value of the stock-based awards at the grant date requires significant judgment and the use of estimates, particularly surrounding Black-Scholes valuation assumptions such as stock price volatility and expected option term.

Below is a summary of stock-based compensation included in the costs and expenses (in thousands):

	Three Months Ended September 30,		Three Months Ended December 31,		Six Months Ended December 31,	
	2023	2022	2023	2022	2023	2022
Stock-Based Compensation Expense:						
Stock-based compensation expense:						
Cost of revenue	\$ 297	\$ 430	\$ 284	\$ 412	\$ 581	\$ 842
Research and development	397	571	367	553	764	1,124
Sales and marketing	159	531	197	292	356	823
General and administrative	355	533	347	514	702	1,047
Total stock-based compensation expense	<u>\$ 1,208</u>	<u>\$ 2,065</u>	<u>\$ 1,195</u>	<u>\$ 1,771</u>	<u>\$ 2,403</u>	<u>\$ 3,836</u>

Total stock-based compensation includes expense related to non-employee awards of \$26,000 \$25,000 and \$44,000 \$51,000 during the three and six months ended September 30, 2023 December 31, 2023, respectively.

Total stock-based compensation includes expense related to non-employee awards of \$38,000 and 2022, \$82,000 during the three and six months ended December 31, 2022, respectively.

Total stock-based compensation includes expense related to the ESPP of \$79,000 \$87,000 and \$127,000 \$166,000 for the three and six months ended September 30, 2023 December 31, 2023, respectively. Total stock-based compensation includes expense related to the ESPP of \$63,000 and 2022, \$190,000 for the three and six months ended December 31, 2022, respectively.

We utilize the Black-Scholes valuation model for estimating the fair value of the stock-based compensation of options granted and ESPP stock purchase rights. All shares of our common stock issued pursuant to our stock option, RSUs, and ESPP plans are only issued out of an authorized reserve of shares of common stock which were previously registered with the SEC on Registration Statements on Form S-8.

During the three months ended September 30, 2023 December 31, 2023 and 2022, we granted options to purchase 29,100 21,300 and 100,867 53,200 shares of common stock with a weighted-average fair value of \$3.39 \$3.16 and \$5.04 \$4.32 per share, respectively.

1215

[Table of Contents](#)

During the six months ended December 31, 2023 and 2022, we granted options to purchase 50,400 and 154,067 shares of common stock with a weighted-average fair value of \$3.29 and \$4.79 per share, respectively.

We used the following weighted-average assumptions as inputs into the Black-Scholes valuation model to estimate the fair value of the options granted:

	Three Months Ended			
	September 30,			
	2023	2022	2023	2022
Expected volatility	54 %	65 %		
Average risk-free interest rate	4.31 %	3.23 %		
Expected life (in years)	4.54	4.62		
Dividend yield	—	—		

	Three Months Ended		Six Months Ended	
	December 31,		December 31,	
	2023	2022	2023	2022
Expected volatility	53 %	64 %	54 %	65 %
Average risk-free interest rate	4.42 %	4.00 %	4.36 %	3.50 %
Expected life (in years)	4.56	4.58	4.55	4.61
Dividend yield	—	—	—	—

The dividend yield of zero is based on the fact that we have never paid cash dividends and have no present intention to pay cash dividends. We determined the appropriate measure of expected volatility by reviewing historic volatility in the share price of our common stock, as adjusted for certain events that management deemed to be non-recurring and non-indicative of future events. The risk-free interest rate is derived from the average U.S. Treasury Strips rate with maturities approximating the expected lives of the awards during the period, which approximate the rate in effect at the time of the grant.

On June 1, 2023 and 2022, December 1, 2023, employees were granted the right to purchase an aggregate of 77,057 and 97,982 87,332 shares under the ESPP, respectively. During each of and compensation expense related to those purchase rights for the three and six months ended September 30, 2023 December 31, 2023 was \$34,000, respectively.

On December 1, 2022, employees were granted the right to purchase an aggregate of 88,414 shares under the ESPP, and 2022, no ESPP grants or compensation expense related to those purchase occurred rights for the three and six months ended December 31, 2022 was \$41,000, respectively.

As of September 30, 2023 December 31, 2023, there were 938,403 868,129 shares of common stock available for issuance under the ESPP.

We base our estimate of expected life of a stock option on the historical exercise behavior and cancellations of all past option grants made by the Company during the time period which its equity shares have been publicly traded, the contractual term of the option, the vesting period and the expected remaining term of the outstanding options.

In accordance with ASU 2016-09, *Compensation—Stock Compensation: Improvements to Employee Share-Based Accounting*, we elected to continue to estimate forfeitures in the calculation of stock-based compensation expense.

As of September 30, 2023 December 31, 2023, there was approximately \$3.5 million \$2.7 million of total unrecognized compensation cost, net of expected forfeitures, related to unvested stock options, which is expected to be recognized over the weighted-average period of 1.1 1.0 years. There were 1,000 122,500 and 7,225 121,936 options exercised during the three months ended September 30, December 31, 2023 and 2022, respectively. There were 123,500 and 129,161 options exercised during the six months ended December 31, 2023 and 2022, respectively.

As of December 31, 2023, there was approximately \$1.1 million of total unrecognized compensation cost, net of expected forfeitures, related to unvested RSUs, which is expected to be recognized over the weighted-average period of 0.87 years. There were 200,821 RSUs granted during the three and six months ended December 31, 2023 with a weighted average grant date fair value of \$6.50 per share. No RSUs were granted during the three and six months ended December 31, 2022.

Leases

Lease agreements are evaluated to determine whether an arrangement is or contains a lease in accordance with ASC 842, **Leases**.

16

[Table of Contents](#)

Operating leases are included in operating lease right-of-use (ROU) assets, current operating lease liabilities, and noncurrent operating lease liabilities in the condensed consolidated financial statements. ROU assets represent the Company's right to use leased assets over the agreed upon term. Lease liabilities represent the Company's contractual obligation to make lease payments over the lease term.

For operating leases, ROU assets and lease liabilities are recognized at the commencement date of the lease. The lease liability is measured as the present value of the lease payments over the lease term, using the rate implicit in the lease if readily determinable. If the rate implicit in the lease cannot be readily determined, the Company uses its incremental borrowing rate at lease commencement. The operating lease ROU assets are calculated as the present value of the remaining lease payments plus unamortized initial direct costs and any prepayments, less unamortized lease incentives received.

13

[Table of Contents](#)

Operating leases typically include non-lease components such as common-area maintenance costs. We have elected to include non-lease components with lease payments for the purpose of calculating lease ROU assets and liabilities, to the extent that they are fixed. Non-lease component payments that are not fixed are expensed as incurred as variable lease payments.

Lease terms may include renewal or extension options to the extent they are reasonably certain to be exercised. The assessment of whether renewal or extension options are reasonably certain to be exercised is made at lease commencement. Factors considered in determining whether an option is reasonably certain of exercise include, but are not limited to, the value of any leasehold improvements, the value of renewal rates compared to market rates, and the presence of factors that would cause a significant economic penalty to the Company if the option were not exercised. Lease expense is recognized on a straight-line basis over the lease term. The Company has elected not to recognize ROU assets and obligations for leases with an initial term of twelve months or less, and has applied a capitalization threshold to recognize a lease on the condensed consolidated balance sheet. The expense associated with short-term leases and leases that do not meet the Company's capitalization threshold are recorded to lease expense in the period it is incurred.

Goodwill

We review goodwill annually for impairment or sooner whenever events or changes in circumstances indicate that it may be impaired. These events or circumstances could include a significant change in the business climate, legal factors, operating performance indicators, competition, or sale or disposition of a significant portion of a reporting unit. We operate under a single reporting unit and

accordingly, all of our goodwill is associated with the entire company. We had no indicators of impairment during the three and six months ended **September 30, 2023** December 31, 2023.

14.17

[Table of Contents](#)

2. REVENUE RECOGNITION

Disaggregation of Revenue

The following table presents our subscription and professional services revenue during the three and six months ended **September 30, 2023** December 31, 2023 and 2022, respectively (in thousands):

	Three Months Ended		Three Months Ended		Six Months Ended	
	September 30, 2023	2022	December 31, 2023	2022	December 31, 2023	2022
Revenue:						
SaaS revenue	\$ 22,256	\$ 22,628	\$ 21,947	\$ 23,429	\$ 44,203	\$ 46,057
Legacy revenue	67	295	49	185	116	480
Total subscription revenue	22,323	22,923	21,996	23,614	44,319	46,537
Professional services revenue	1,853	1,840	1,819	1,986	3,672	3,826
Total revenue	\$ 24,176	\$ 24,763	\$ 23,815	\$ 25,600	\$ 47,991	\$ 50,363

The following table presents our revenue recognized over-time and at a point-in-time during the three and six months ended **September 30, 2023** December 31, 2023 and 2022, respectively (in thousands):

	Three Months Ended		Three Months Ended		Six Months Ended	
			September 30, 2023	2022	December 31, 2023	December 31, 2022
	2023	2022	2023	2022	2023	2022
Revenue:						
Over-time	\$ 21,425	\$ 21,315	\$ 21,016	\$ 22,808	\$ 42,441	\$ 44,124
Point-in-time	2,751	3,448	2,799	2,792	5,550	6,239
Total revenue	\$ 24,176	\$ 24,763	\$ 23,815	\$ 25,600	\$ 47,991	\$ 50,363

The following table presents our revenue by geography. Revenue by geography is generally determined on the region of our contracting entity rather than the region of our customer. The relative proportion of our total revenue between each geographic region as presented in the table below was materially consistent across each of our operating regions' revenue for the periods presented (in thousands):

	Three Months Ended		Six Months Ended	
	December 31,		December 31,	
	2023	2022	2023	2022
Revenue:				

North America	\$ 18,836	\$ 19,802	\$ 37,825	\$ 38,922
Europe, Middle East, & Africa	4,979	5,798	10,166	11,441
Total revenue	<u>\$ 23,815</u>	<u>\$ 25,600</u>	<u>\$ 47,991</u>	<u>\$ 50,363</u>

	Three Months Ended	
	September 30,	
	2023	2022
Revenue:		
North America	\$ 18,989	\$ 19,120
Europe, Middle East, & Africa	5,187	5,643
Total revenue	<u>\$ 24,176</u>	<u>\$ 24,763</u>

Contract Balances

Contract assets, if any, consist of unbilled receivables for completed performance obligations which have not been invoiced, and for which we do not have an unconditional right to consideration. Unbilled receivables are included in accounts receivable, less allowance provision for doubtful accounts credit losses on our condensed consolidated balance sheets. Contract liabilities consist of deferred revenue for which we have an obligation to transfer services to customers and have received consideration in advance or the amount is due from customers. Once the obligations are fulfilled, then deferred revenue is recognized to revenue in the respective period.

15 18

[Table of Contents](#)

The following table presents our contract liabilities (in thousands):

	Balance as of	Balance as of	December	June 30,
	September 30, 2023	June 30, 2023		
Contract liabilities:				
Deferred revenue	41,959	47,762	\$40,880	\$47,762
Deferred revenue, net of current portion	2,413	2,101	2,991	2,101
Total deferred revenue	<u>44,372</u>	<u>49,863</u>	<u>\$43,871</u>	<u>\$49,863</u>

\$12.9 10.5 million and \$23.4 million of deferred revenue as of June 30, 2023 was recognized to revenue during the three and six months ended September 30, 2023, December 31, 2023, respectively.

Remaining Performance Obligations

Remaining performance obligations represent contracted revenue that had not yet been recognized, and include deferred revenue, invoices that have been issued to customers but were uncollected and have not been recognized as revenue, and amounts that will be invoiced and recognized as revenue in future periods. The transaction price allocated to the remaining performance obligation is

influenced by a variety of factors, including seasonality, timing of renewals, average contract terms and foreign currency exchange rates. As of **September 30, 2023** **December 31, 2023**, our remaining performance obligations were **\$82.4 million** **\$77.9 million** of which we expect to recognize **\$59.7 million** **\$55.8 million** and **\$22.7 million** **\$22.1 million** as revenue within one year and beyond one year, respectively.

3. EARNINGS (LOSS) PER SHARE

Basic earnings (loss) per share is computed using the weighted-average number of shares of common stock outstanding. In periods where net income is reported, the weighted-average number of shares is increased by stock options in the money and shares issuable for RSUs subject to service-based vesting requirements to calculate diluted net income earnings per share.

The following table represents the calculation of basic and diluted net income earnings (loss) per share (unaudited, in thousands, except per share data):

	Three Months Ended			
	September 30,			
	2023	2022		
Net income (loss)	\$ 2,596	\$ (16)		
Per share information:				
Earnings (loss) per share:				
Basic	\$ 0.08	\$ (0.00)		
Diluted	\$ 0.08	\$ (0.00)		
Weighted-average shares used in computation:				
Basic	31,479	31,933		
Effect of dilutive options	657	—		
Diluted	32,136	31,933		

	Three Months Ended		Six Months Ended	
	December 31,		December 31,	
	2023	2022	2023	2022
Net income (loss)	\$ 2,185	\$ (104)	\$ 4,781	\$ (120)
Per share information:				
Earnings (loss) per share:				
Basic	\$ 0.07	\$ (0.00)	\$ 0.15	\$ (0.00)
Diluted	\$ 0.07	\$ (0.00)	\$ 0.15	\$ (0.00)
Weighted-average shares used in computation:				
Basic	31,179	32,018	31,329	31,975
Effect of dilutive options and RSUs	664	—	662	—
Diluted	31,843	32,018	31,991	31,975

Weighted-average shares of stock options to purchase **3,564,660** **3,487,402** and **3,707,271** **3,628,963** shares of common stock for the three months ended **September 30, 2023** **December 31, 2023** and 2022, respectively, and weighted-average shares of stock options to purchase **3,527,031** and **3,658,692** shares of common stock for the six months ended **December 31, 2023** and 2022, respectively, were not included in the computation of diluted net income earnings (loss) per share due to their anti-dilutive effect. Such securities could have a dilutive effect in future periods.

[Table of Contents](#)

4. INCOME TAXES

Income taxes are accounted for using the asset and liability method in accordance with ASC 740, *Income Taxes* (ASC 740). Under this method, deferred tax liabilities and assets are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. For the legacy eGain business in the United States, based upon the weight of available evidence, which includes our historical operating performance, our future investment plans, and the uncertainty in the current market environment and economic uncertainty, we have provided a full valuation allowance against our net deferred tax assets. For the legacy eGain business in the United Kingdom, based on the positive evidence, the Company has determined it would be able to utilize the deferred tax assets and does not have a valuation allowance against the deferred tax assets. The remaining eGain foreign operations as well as Exxon's business have historically been profitable and we believe it is more likely than not that those assets will be realized. Our tax provision primarily relates to foreign activities as well as state income taxes. Our income tax rate differs from the statutory tax rates primarily due to the change in our valuation allowance as well as our foreign operations.

We account for uncertain tax positions according to the provisions of ASC 740. ASC 740 contains a two-step approach for recognizing and measuring uncertain tax positions. Tax positions are evaluated for recognition by determining if the weight of available evidence indicates that it is probable that the position will be sustained on audit, including resolution of related appeals or litigation. Tax benefits are then measured as the largest amount which is more than 50% likely of being realized upon ultimate settlement. We consider many factors when evaluating and estimating tax positions and tax benefits, which may require periodic adjustments and which may not accurately anticipate actual outcomes.

As of **September 30, 2023** **December 31, 2023**, utilization of the net operating loss (NOL) or tax credit carryforwards to offset future taxable income and taxes, respectively, are subject to an annual limitation under the Internal Revenue Code of 1986 and similar state provisions, which is determined by first multiplying the value of the Company's stock at the time of the ownership change by the applicable long-term, tax-exempt rate, and then could be subject to additional adjustments such as built in gain or built in loss, as required. Any limitation may result in expiration of all or a portion of its NOL and or tax credit carryforwards before utilization. As of **September 30, 2023** **December 31, 2023**, the Company did not identify any ownership change that would significantly limit the NOL carryovers.

Under the Tax Cuts and Jobs Act, enacted on December 22, 2017 (TCJA), federal NOLs incurred in 2018 and in future years may be carried forward indefinitely, but generally may not be carried back, and the deductibility of such NOLs is limited to 80% of taxable income.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, was passed into law, amending portions of certain relevant US tax laws. The CARES Act included a number of federal income tax law changes, including, but not limited to: (i) permitting NOL carrybacks to offset 100% of taxable income for taxable years beginning before 2021, (ii) accelerating alternative minimum tax credit refunds, (iii) temporarily increasing the allowable business interest deduction from 30% to 50% of adjusted taxable income, and (iv) providing a technical correction for depreciation related to qualified improvement property. The CARES Act had no impact on our consolidated financial statements. Beginning in 2022, the TCJA eliminates the option to immediately deduct research and development expenditures and requires taxpayers to capitalize and amortize domestic expenditures over five years and foreign expenditures over 15 years. While the mandatory capitalization requirement increases our deferred tax assets and cash tax liabilities for 2022, the tax year in which the provision took effect, the impact will decline annually over the five-year amortization period to an immaterial amount in year six.

On August 16, 2022, the Inflation Reduction Act of 2022 (IRA) was signed into law and is effective for taxable years beginning after December 31, 2022. The IRA includes multiple incentives to promote clean energy with tax provisions primarily focused on implementing

a 15% minimum tax on global adjusted financial statement income and a 1% excise tax on share repurchases. These measures may affect our condensed consolidated financial statements and we will continue to evaluate the applicability and effect of the IRA as more guidance is issued.

1720

[Table of Contents](#)

5. LEASES

We lease our office facilities under non-cancelable operating leases that expire on various dates through fiscal year 2027. All of our office leases are classified as operating leases with lease expense recognized on a straight-line basis over the lease term. Lease ROU assets and liabilities are recognized on the commencement date at the present value of lease payments over the lease term. As our leases do not provide an implicit rate, we use our incremental borrowing rate based on information available at the commencement date to determine the present value of lease payments.

Total operating lease costs were \$326,000 \$325,000 and \$321,000 \$315,000 for the three months ended September 30, 2023 December 31, 2023 and 2022, respectively. Total operating lease costs were \$650,000 and \$636,000 for the six months ended December 31, 2023 and 2022, respectively.

For the three and six months ended September 30, 2023 and 2022, December 31, 2023, operating cash outflows for operating leases were \$315,000 \$276,000 and \$298,000 \$590,000, respectively. For the three and six months ended December 31, 2022, operating cash outflows for operating leases were \$295,000 and \$593,000, respectively.

The following tables present information about leases on our condensed consolidated balance sheets (in thousands):

	December 31, 2023	June 30, 2023
Assets:		
Operating lease right-of-use assets	\$ 2,200	\$ 2,797
Liabilities:		
Operating lease liabilities	587	832
Operating lease liabilities, net of current portion	1,470	1,762

	September 30, 2023	June 30, 2023
Assets:		
Operating lease right-of-use assets	\$ 2,497	\$ 2,797
Liabilities:		
Operating lease liabilities	689	832
Operating lease liabilities, net of current portion	1,617	1,762

The following table presents information about the weighted average lease term and discount rate as follows:

	September 30, 2023	June 30, 2023	December 31, 2023	June 30, 2023
Weighted average remaining lease term (in years)	3.32	3.40	3.23	3.40
Weighted average discount rate	4.99 %	4.97 %	5.00 %	4.97 %

As of **September 30, 2023** **December 31, 2023**, remaining maturities of lease liabilities are as follows (in thousands):

Fiscal Period:			
Remaining nine months of fiscal 2024	\$	618	
Remaining six months of fiscal 2024			\$ 342
Fiscal 2025		668	668
Fiscal 2026		688	688
Fiscal 2027		527	527
Total minimum lease payments		2,501	2,225
Less: Imputed interest		(195)	(168)
Total operating lease liabilities		2,306	2,057
Less: Current operating lease liabilities		(689)	(587)
Total operating lease liabilities, net of current portion	\$	1,617	\$1,470

21

[Table of Contents](#)

6. COMMITMENTS AND CONTINGENCIES

Litigation

In the ordinary course of business, we are involved in various legal proceedings and claims related to alleged infringement of intellectual property rights, commercial, corporate and securities, labor and employment, wage and hour, and other claims that are not expected to have a material impact on our business or our condensed consolidated financial statements. We have been, and may in the future be, put on notice and/or sued by third parties for alleged infringement of their proprietary rights, including patent infringement.

18

[Table of Contents](#)

We evaluate all claims and lawsuits with respect to their potential merits, our potential defenses and counterclaims, settlement or litigation potential and the expected effect on us. Our technologies may be subject to injunction if they are found to infringe the rights of a third party. In addition, our agreements require us to indemnify our customers for third-party intellectual property infringement claims, which could increase the cost to us of an adverse ruling on such a claim.

Warranty

We generally warrant that the program portion of our software will perform substantially in accordance with certain specifications for a period up to one year from the date of delivery. Our liability for a breach of this warranty is either a return of the license fee or providing a fix, patch, work-around or replacement of the software.

We also provide standard warranties against and indemnification for the potential infringement of third party intellectual property rights to our customers relating to the use of our products, as well as indemnification agreements with certain officers and employees under which we may be required to indemnify such persons for liabilities arising out of their duties to us. The terms of such obligations vary. Generally, the maximum obligation is the amount permitted by law. Historically, cost related to these warranties have not been significant. However, we cannot guarantee that a warranty reserve will not become necessary in the future.

Indemnification

We have agreed to indemnify our directors and executive officers for costs associated with any fees, expenses, judgments, fines and settlement amounts incurred by any of these persons in any action or proceeding to which any of those persons is, or is threatened to be, made a party by reason of the person's service as a director or officer, including any action by us, arising out of that person's services as our director or officer or that person's services provided to any other company or enterprise at our request.

Transfer Pricing

We have received transfer-pricing assessments from tax authorities with regard to transfer pricing issues for certain fiscal years, which we have appealed with the appropriate authority. We review the status of each significant matter and assess its potential financial exposure. We believe that such assessments are without merit and would not have a significant impact on our consolidated financial statements.

Contractual Commitments

Our principal contractual commitments consist of obligations under leases for office space. Lease agreements are evaluated to determine whether an arrangement is or contains a lease in accordance with ASC 842, **Leases**.

7. FAIR VALUE MEASUREMENT

ASC 820, *Fair Value Measurement* (ASC 820), defines fair value, establishes a framework for measuring fair value of assets and liabilities, and expands disclosures about fair value measurements. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability in the principal or most advantageous market for the assets or liabilities in an orderly transaction between market participants on the measurement date. Subsequent changes in fair

value of these financial assets and liabilities are recognized in earnings or other comprehensive income when they occur. ASC 820 applies whenever other statements require or permit assets or liabilities to be measured at fair value.

ASC 820 includes a fair value hierarchy, of which the first two are considered observable and the last unobservable, that is intended to increase the consistency and comparability in fair value measurements and related disclosures. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Observable inputs reflect

assumptions market participants would use in pricing an asset or liability based on market data obtained from independent sources while unobservable inputs reflect a reporting entity's pricing based upon their own market assumptions.

[Table of Contents](#)

The fair value hierarchy consists of the following three levels:

Level 1 – instrument valuations are obtained from real-time quotes for transactions in active exchange markets involving identical assets.

Level 2 – instrument valuations are obtained from readily-available pricing sources for comparable instruments.

Level 3 – instrument valuations are obtained without observable market value and require a high level of judgment to determine the fair value.

Our money market funds are measured at fair value on a recurring basis based on quoted market prices in active markets and are classified as level 1 within the fair value hierarchy. As of **September 30, 2023** **December 31, 2023** and June 30, 2023, cash equivalents classified as level 1 instruments, including money market account investments, were measured at **\$73.6 million** **\$79.9 million** and **\$73.2 million** **\$67.3 million**, respectively.

[Table of Contents](#)

8. SHARE REPURCHASE PROGRAM

On November 14, 2022, the Company's Board of Directors authorized a stock repurchase program under which we may purchase up to \$20.0 million of our outstanding common stock. As of **September 30, 2023** **December 31, 2023**, approximately **\$13.7 million** **\$11.2 million** remained available for stock repurchases pursuant to our stock repurchase program.

Under the stock repurchase program, we may purchase shares of common stock on a discretionary basis from time to time through open market transactions or privately negotiated transactions at prices deemed appropriate by us. In addition, at our discretion, open market repurchase of common stock may also be made under a Rule 10b5-1 plan, which would permit common stock to be repurchased when the Company might otherwise be precluded from doing so under insider trading laws or self-imposed trading restrictions.

The timing and number of shares repurchased will be determined based on an evaluation of market conditions and other factors, including stock price, trading volume, general business and market conditions, and the availability of capital. The **original** stock repurchase program is effective immediately **on as of** November 14, 2022, **has a** and was amended to extend the term **of one by an additional year from adoption until November 14, 2024**, unless **further extended**, does not obligate us to acquire a specified number of

shares and may be modified, suspended, or discontinued at any time at our discretion without notice. The stock repurchase program will be funded using existing cash or future cash flows. During the three months ended September 30, 2023 December 31, 2023, 83,056 390,842 shares have been repurchased for an average acquisition cost per share of \$6.23, \$6.39, totaling \$517,000, \$2.5 million. During the six months ended December 31, 2023, 473,898 shares have been repurchased for an average acquisition cost per share of \$6.36, totaling \$3.0 million. We intend to reissue repurchased shares at a later date and therefore carry the shares as treasury stock at cost.

20

[Table of Contents](#)

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and the related notes included in Item 1 of Part I of this Quarterly Report on Form 10-Q, and with our audited financial statements and the related notes included in our Annual Report on Form 10-K for the year ended June 30, 2023.

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These statements relate to future periods, future events or our future operating or financial plans or performance. Often, these statements include the words "believe," "expect," "target," "anticipate," "intend," "plan," "seek," "estimate," "potential," or words of similar meaning, or future or conditional verbs such as "will," "would," "should," "could," "might," or "may," or the negative of these terms, and other similar expressions. These forward-looking statements that involves risks and uncertainties include statements as to:

- *the benefits of our SaaS only business model, including our belief that it affords recurring revenue visibility, more predictability and 50% faster time to value to SaaS clients;*
- *our belief that SaaS revenue better reflects business momentum;*
- *our expectation that legacy fees will continue to decline in future quarters;*
- *our belief that the combination of SaaS and professional services revenue is a useful measure to value our business on a forward-looking basis;*
- *our belief that is useful to exclude certain non-cash charges and non-core operational charges from non-GAAP operating income;*
- *expected benefits of our solutions to our clients and partners;*
- *our value proposition;*
- *customer and market expectations in the market in which we operate, and our ability to meet expectations and satisfy such needs;*

24

[Table of Contents](#)

- *our lengthy sales cycles and the difficulty in predicting timing of sales or delays;*
- *our expectations with respect to revenue, cost of revenue, expenses and other financial metrics;*
- *our business plans, strategies, targets, and outlook;*
- *our expectations related to our product development plan;*
- *competition in the markets in which we do business and our competitive advantages;*
- *our beliefs regarding our prospects for our business;*
- *changes in technology, including AI technology and services;*
- *changes in demand for our solutions;*
- *our expectations regarding the composition of our customers and the result of a loss of a significant customer;*
- *our reliance on strategic and third party distribution partnerships;*
- *the risk of unauthorized access to a customer's data or our data or our IT systems and cybersecurity attacks;*
- *our ability to timely adapt and comply with changing European regulatory and political environments;*
- *the effect of recent changes in U.S. tax legislation;*
- *the effect of compliance with privacy laws and regulations on our business and our customers;*

21

[Table of Contents](#)

- *our ability to take adequate precautions against claims or lawsuits made by third parties, including alleged infringement of proprietary rights;*
- *the adequacy of our capital resources and our ability to raise additional financing;*
- *the risks related to our international operations;*
- *the potential impact of foreign currency fluctuations and inflation; and*
- *the potential impact of health epidemics.*

These forward-looking statements reflect our current views with respect to future events, are based on assumptions and are subject to risks and uncertainties. These risks and uncertainties could cause actual results to differ materially from those projected and include, but are not limited to:

- *our ability to manage our business plans, strategies and outlooks and any business-related forecasts or projections;*
- *our ability to improve our current solutions;*
- *our ability to innovate and respond to rapid technological change and competitive challenges;*
- *our ability to execute our sales and marketing strategy;*
- *customer acceptance of our existing and future solutions;*
- *our ability to predict subscription renewals;*
- *the impact of new legislation or regulations on our business;*

- *the impact of accounting pronouncements and our critical accounting policies, judgments, estimates, models and assumptions on our financial results;*
- *our ability to compete;*
- *the success of our strategic and distribution partnerships;*

25

[Table of Contents](#)

- *our ability to obtain capital when needed;*
- *our ability to manage future growth;*
- *our ability to retain key personnel and hire additional personnel;*
- *risks related to protection of our intellectual property;*
- *foreign currency fluctuations and inflation;*
- *the global economic environment;*
- *risks related to public health pandemics; and*
- *the risks set forth under "Risk Factors."*

Given these risks and uncertainties, you should not place undue reliance on these forward-looking statements. Except as required by federal securities laws, we undertake no obligation to update any forward-looking statements for any reason, even if new information becomes available or other events occur in the future.

All references to "eGain", the "Company", "our", "we" or "us" mean eGain Corporation and its subsidiaries, except where it is clear from the context that such terms mean only eGain and exclude its subsidiaries.

eGain and eGain® are trademarks of eGain Corporation. We also refer to trademarks of other corporations and organizations in this report.

22

[Table of Contents](#)

Summary Risk Factors

Our business is subject to numerous risks and uncertainties that could affect our ability to successfully implement our business strategy and affect our financial results. You should carefully consider all of the information in this report and, in particular, the following principal risks and all of the other specific factors described in Item 1A. of this report, "Risk Factors," before deciding whether to invest in our company:

- Our business is influenced by a range of factors that are beyond our control and that we have no comparative advantage in forecasting.

- Our revenue and operating results have fluctuated in the past and are likely to fluctuate in the future, and because we recognize revenue from subscriptions over a period of time, downturns in revenue may not be immediately reflected in our operating results.
- We cannot accurately predict subscription renewal rates and the impact these rates may have on our future revenue and operating results.
- Our lengthy sales cycles and the difficulty in predicting timing of sales or delays may impair our operating results.
- Because we depend on a relatively small number of customers for a substantial portion of our revenue, the loss of any of these customers or our failure to attract new significant customers could adversely impact our revenue and harm our business.
- The market for customer engagement software, including generative AI product offerings, is competitive, and our business will be adversely affected if we are unable to successfully compete.
- If we fail to expand and improve our sales performance and marketing activities, or retain our sales and marketing personnel, we may be unable to grow our business, which could negatively impact our operating results and financial condition.
- Our failure to maintain, develop or expand strategic and third-party distribution channels would impede our revenue growth.

26

[Table of Contents](#)

- Difficulties and delays in customers implementing our products could harm our revenue and margins.
- We conduct a significant portion of our business and operations outside of the United States, which exposes us to additional risks that may not exist in the United States. These risks in turn could cause our operating results and financial condition to suffer.
- Unplanned system interruptions, delays in service or inability to increase capacity, including internationally, at our third-party data center facilities could impair the use or functionality of our cloud operations and harm our business.
- Software errors could be costly and time-consuming for us to correct, and could harm our reputation and impair our ability to sell our solutions.
- The terms we agree to in our Service Level Agreements or other contracts may result in increased costs or liabilities, which would in turn affect our results of operations.
- If we are unable to increase the profitability of subscription revenue, if we experience significant customer attrition, or if we are required to delay recognition of revenue, our operating results could be adversely affected.
- We depend on broad market acceptance of our applications and of our business model. If our expectations regarding the market for our applications are not met, our business could be seriously harmed.
- We may be unable to respond to the rapid technological change and changing customer preferences in the online sales, marketing, customer service, and/or online consumer services industries and this may cause our business to suffer.

23

[Table of Contents](#)

- We employ third-party technologies for use in or with our platform and the inability to license such technologies on commercially reasonable terms or the inability to maintain these licenses or errors in the software we license could result in increased costs, or reduced service levels, which could adversely affect our business.
- Our offshore product development, support and professional services may prove difficult to manage or may not allow us to realize our cost reduction goals, produce effective new solutions and provide professional services to drive growth.
- If our cybersecurity systems or the systems of our vendors, partners and suppliers are breached and unauthorized access is obtained to a customer's data or our data or IT systems, our service may be perceived as not being secure, customers may curtail or stop using our service and we may incur significant legal and financial exposure and liabilities.
- Changes in the European regulatory environment regarding privacy and data protection regulations, such as the GDPR, could expose us to risks of noncompliance and costs associated with compliance.
- Privacy concerns and laws, evolving regulation of cloud computing and other domestic or foreign regulations may limit the use and adoption of our solutions and adversely affect our business.

Overview

eGain automates customer engagement with an innovative knowledge hub, powered by conversational and generative AI and analytics. We sell mostly to large enterprises across financial services, telecommunications, retail, government, healthcare, and utilities seeking to better serve customers at scale by eliminating content silos and helping to automate customer engagement processes of all levels of complexity that may also require regulatory compliance. With our mantra of **AX + BX + CX = DX™**, we guide clients to effortless digital experience (DX) by holistically optimizing agent experience (AX), business experience (BX), and customer experience (CX). Leading brands use eGain's SaaS solution to improve customer satisfaction, empower agents, reduce service cost, and boost sales. We are headquartered in the United States. We also operate in the United Kingdom and India.

We have transitioned from a hybrid model, where we sold both SaaS and perpetual license solutions, to a SaaS only business model. Today, we only sell SaaS to new clients and are actively migrating our remaining perpetual license clients

27

[Table of Contents](#)

to SaaS. As we continue to migrate our legacy perpetual license clients to SaaS, we expect our legacy revenue, primarily comprising annual maintenance and support fees for legacy perpetual license clients to continue to decline.

We believe our go-forward SaaS business model affords us recurring revenue visibility and more predictability. Historical fiscal years affirmed our view that SaaS clients adopt our product innovation much faster than the perpetual license model and get better service levels. We believe SaaS clients enjoy up to 50% faster time to value from their eGain investment.

Key Financial Measures

We monitor the key financial performance measures set forth below as well as cash and cash equivalents and available debt capacity, which are discussed in "Liquidity and Capital Resources," to help us evaluate trends, establish budgets, measure the effectiveness of our sales and marketing efforts and assess operational effectiveness and efficiencies.

SaaS Revenue

With our transition to a SaaS only business model, we believe SaaS revenue better reflects our business momentum, and, to analyze progress, and thus, we disaggregate our subscription revenue growth between:

- SaaS revenue, which is defined as revenue from cloud delivery arrangements, term licenses and embedded OEM royalties and associated support; and
- Legacy revenue, which is defined as revenue from maintenance and support contracts on perpetual license arrangements that we no longer sell.

[Table of Contents](#)

The following table presents a break out of subscription revenue between SaaS and legacy revenue for each of the following periods:

(in thousands)	Three Months Ended			Six Months Ended		
	September 30,		Change	December 31,		Change
	2023	2022	(2)%	2023	2022	(4)%
SaaS revenue	\$ 22,256	\$ 22,628	\$ (372)	\$ 44,203	\$ 46,057	\$ (1,854)
Legacy revenue	67	295	(228)	116	480	(364)
Total subscription revenue	\$ 22,323	\$ 22,923	\$ (600)	\$ 44,319	\$ 46,537	\$ (2,218)

(in thousands)	Three Months Ended			Six Months Ended		
	December 31,		Change	December 31,		Change
	2023	2022	(6)%	2023	2022	(4)%
SaaS revenue	\$ 21,947	\$ 23,429	\$ (1,482)	\$ 44,203	\$ 46,057	\$ (1,854)
Legacy revenue	49	185	(136)	116	480	(364)
Total subscription revenue	\$ 21,996	\$ 23,614	\$ (1,618)	\$ 44,319	\$ 46,537	\$ (2,218)

As we continue to migrate our legacy perpetual license clients to SaaS, we expect our legacy revenue to continue to decline.

SaaS and Professional Services Revenue

As we continue to shift to a SaaS only business model, substantially all of professional services revenue is now generated from our SaaS customer base. We believe the combination of SaaS and professional services revenue is a useful measure to value our business on a forward-looking basis.

The following table presents total SaaS and professional services revenue for each of the following periods:

(in thousands)	Three Months Ended			Six Months Ended		
	September 30,		Change	December 31,		Change
	2023	2022	(2)%	2023	2022	(4)%
SaaS revenue	\$ 22,256	\$ 22,628	\$ (372)(2)%	\$ 21,947	\$ 23,429	\$ (1,482)(6)%
Professional services revenue	1,853	1,840	13 1 %	1,819	1,986	(167)(8)%
Total SaaS and professional services revenue:	\$ 24,109	\$ 24,468	\$ (359)(1)%	\$ 23,766	\$ 25,415	\$ (1,649)(6)%

[Table of Contents](#)

Non-GAAP Operating Income

Non-GAAP operating income is defined as income (loss) from operations, adjusted for the impact of stock-based compensation expense.

Management believes that it is useful to exclude certain non-cash charges and non-core operational charges from non-GAAP operating income because (i) the amount of such expenses in any specific period may not directly correlate to the underlying performance of our business operations; and (ii) such expenses can vary significantly between periods as a result of the timing of new stock-based awards. The presentation of the non-GAAP financial measures is not intended to be considered in isolation or as a substitute for, or superior to, the financial information prepared and presented in accordance with generally accepted accounting principles in the United States of America (GAAP).

25

[Table of Contents](#)

The following table presents a reconciliation of GAAP income (loss) from operations to non-GAAP income from operations for each of the following periods:

(in thousands)	Three Months Ended September 30,		Three Months Ended December 31,		Six Months Ended December 31,	
	2023		2022		2023	2022
	2023	2022	2023	2022	2023	2022
Income (loss) from operations	\$ 1,416	\$ (670)	\$ 2,425	\$ 213	\$ 3,841	\$ (457)
Add:						
Stock-based compensation	1,208		2,065	1,195	1,771	2,403
Non-GAAP income from operations	<u>\$ 2,624</u>	<u>\$ 1,395</u>	<u>\$ 3,620</u>	<u>\$ 1,984</u>	<u>\$ 6,244</u>	<u>\$ 3,379</u>

Critical Accounting Policies and Estimates

Management's Discussion and Analysis of Financial Condition and Results of Operations discusses our condensed consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period.

We believe that the assumptions and estimates, which are described in Note 1 "Summary of Business and Significant Accounting Policies" to our condensed consolidated financial statements, associated with revenue recognition, stock-based compensation, allowance for doubtful accounts related to estimated credit losses, the valuation of goodwill, the valuation of deferred tax allowance, and legal contingencies have the greatest potential impact on our condensed consolidated financial statements. We evaluate these estimates on an ongoing basis. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values

of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Sources of Revenue

Our revenue is comprised of two categories, subscription and professional services. Subscription includes SaaS revenue and legacy revenue. SaaS revenue includes revenue from cloud delivery arrangements, term licenses and embedded OEM royalties and associated support. Legacy revenue is associated with license, maintenance and support contracts on perpetual license arrangements that we no longer sell. Professional services include consulting, implementation, training, and managed services.

Subscription Revenue

For our cloud delivery arrangements, our maintenance and support arrangements and our term license subscriptions that incorporate substantial cloud functionality, the combined performance obligation is recognized ratably over the contract term as the obligation is delivered. For contracts involving distinct software licenses, the license performance obligation is satisfied at a point in time when control is transferred to the customer.

29

[Table of Contents](#)

We typically invoice our customers in advance upon execution of the contract or subsequent renewals. Invoiced amounts are recorded in accounts receivable, deferred revenue or revenue, depending on when control is transferred to our customers based on each arrangement.

We have a royalty revenue agreement with a customer related to our embedded intellectual property. Under the terms of the agreement, the customer is to provide a combined fixed fee, per agent, for each software license sold containing the embedded software to us. These embedded OEM royalties are included as subscription revenue. Under revenue guidance, since these arrangements are for sales-based licenses of intellectual property, we recognize revenue only as the subsequent sale occurs. However, since such sales are reported by the customer with a quarter in arrears, such revenue is recognized at the time it is reported and paid by the customer given that any estimated variable consideration would have to be fully

26

[Table of Contents](#)

constrained due to the unpredictability of such estimate and the unavoidable risk that it may lead to significant revenue reversals.

Professional Services Revenue

Professional services revenue includes system implementation, consulting, training, and managed services. The transaction price is allocated to various performance obligations based on their standalone selling prices (SSP). Revenue allocated to each performance obligation is recognized as work is performed. Managed services include a comprehensive set of processes and activities that range

from implementation to monitoring the evolution and support of our solutions in a company. Our consulting and implementation service contracts are bid either on a time-and-material basis or on a fixed-fee basis. Managed services contracts are bid on a time-and-material basis. Fixed fees are generally paid on milestone billing at pre-determined points in the contract. Amounts that have been invoiced are recorded in accounts receivable and in deferred revenue or revenue, depending on whether transfer of control to customers has occurred.

Training revenue that meets the criteria to be accounted for separately is recognized when training is provided.

Remaining Performance Obligations

Remaining performance obligations represent contracted revenue that had not yet been recognized, and include billed deferred revenue, consisting of amounts invoiced to customers whether collected or uncollected, which have not been recognized as revenue, as well as unbilled amounts that will be invoiced and recognized as revenue in future periods. The transaction price allocated to the remaining performance obligation is influenced by a variety of factors, including seasonality, timing of renewals, average contract terms and foreign currency exchange rates.

As of **September 30, 2023** **December 31, 2023**, our remaining performance obligations were **\$82.4 million** **\$77.9 million**, of which we expect to recognize **\$59.7 million** **\$55.8 million** and **\$22.7 million** **\$22.1 million** as revenue within one year and beyond one year, respectively.

We expect our remaining performance obligations to change quarterly for several reasons including the timing of new contracts and renewals, duration and size of our subscription and support arrangements, variable billing cycles and foreign exchange rate fluctuation. We typically issue renewal invoices in advance of the renewal service period. Depending on timing, the initial invoice and subsequent renewal invoices may occur in different quarters. This may result in an increase or decrease **to** **in** our accounts receivable and deferred revenue.

Costs Capitalized to Obtain Revenue Contracts

Under Topic 606, we capitalize incremental costs to obtain non-cancelable subscription and maintenance and support revenue contracts with amortization periods that may extend longer than the non-cancelable subscription and maintenance and support revenue contract terms.

We capitalize incremental costs of obtaining a non-cancelable subscription and maintenance and support revenue contract with amortization periods of one year or more. The capitalized amounts consist primarily of sales commissions paid to our direct sales force. Capitalized amounts also include (i) amounts paid to employees other than the direct sales force who earn incentive payouts under annual compensation plans that are tied to the value of contracts acquired and (ii) the associated payroll taxes and fringe benefit costs associated with the payments to our employees.

Costs capitalized related to new revenue contracts are generally deferred and amortized on a straight-line basis over a period of benefit that we estimate to be five years. We determine the period of benefit by taking into consideration the period from initial contract through renewal, which constitutes the length of our customer relationship or customer life. Amortization of costs capitalized related to new revenue contracts is included as a component of sales and marketing expense in our operating results.

[Table of Contents](#)

Results of Operations

The following table sets forth certain items reflected in our condensed consolidated statements of operations expressed as a percent of total revenue for the periods indicated:

	Three Months Ended		Three Months Ended		Six Months Ended	
	September 30,		December 31,		December 31,	
	2023	2022	2023	2022	2023	2022
Revenue:						
Subscription	92 %	93 %	92 %	92 %	92 %	92 %
Professional services	8 %	7 %	8 %	8 %	8 %	8 %
Total revenue	100 %	100 %	100 %	100 %	100 %	100 %
Cost of revenue:						
Cost of subscription	21 %	16 %	21 %	17 %	21 %	17 %
Cost of professional services	7 %	9 %	8 %	9 %	8 %	9 %
Total cost of revenue	28 %	25 %	29 %	26 %	29 %	26 %
Gross profit	72 %	75 %	71 %	74 %	71 %	74 %
Operating expenses:						
Research and development	27 %	28 %	28 %	28 %	28 %	28 %
Sales and marketing	25 %	38 %	22 %	35 %	24 %	36 %
General and administrative	13 %	11 %	10 %	10 %	12 %	11 %
Total operating expenses	65 %	77 %	60 %	73 %	64 %	75 %
Income (loss) from operations	6 %	(2)%	10 %	1 %	8 %	(1)%

Revenue

We classify our revenue into two categories: subscription and professional services revenue. We further break down subscription revenue into SaaS revenue and legacy revenue, with SaaS revenue being **at the** key metric.

The following table presents our subscription and professional services revenue during the three **and six** months ended **September 30, 2023**, **December 31, 2023** and 2022, respectively:

(in thousands, except percentages)	Three Months Ended			Three Months Ended			Six Months Ended		
	September 30,			December 31,			December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change
Subscription	\$22,323	\$22,923	\$(600)(3)%	\$21,996	\$23,614	\$(1,618)(7)%	\$44,319	\$46,537	\$(2,218)(5)%
Professional services	1,853	1,840	13 1 %	1,819	1,986	(167)(8)%	3,672	3,826	(154)(4)%
Total revenue	\$24,176	\$24,763	\$(587)(2)%	\$23,815	\$25,600	\$(1,785)(7)%	\$47,991	\$50,363	\$(2,372)(5)%

Total revenue **decreased approximately \$587,000 during** **for** the three months ended **September 30, 2023** **December 31, 2023 decreased** by **\$1.8 million**, while SaaS revenue **decreased \$1.5 million**, compared to the same period in fiscal year **2023**, due to a decrease in SaaS and legacy **2023**. Total revenue of **\$372,000** and **\$228,000**, offset by an increase of **\$13,000** in professional services, respectively, during **for the three** **six** months ended **September 30, 2023** **December 31, 2023 decreased by \$2.4 million**, while SaaS revenue **decreased** by **\$1.9 million**, compared to the same period in fiscal year **2023**.

Our revenue was impacted by foreign exchange rate fluctuation between the U.S. Dollar, Euro, and British Pound. We recalculate our current period results using the comparable prior period exchange rates to exclude the impact of foreign exchange rate fluctuation. Foreign exchange rate fluctuation resulted in an increase of **\$426,000** **\$340,000** and a decrease of **\$909,000** in total revenue during the three months ended September 30, 2023 and 2022, respectively.

\$863,000

2831

[Table of Contents](#)

in total revenue during the three months ended December 31, 2023 and 2022, respectively. Foreign exchange rate fluctuation resulted in an increase of **\$769,000** and a decrease of **\$1.7 million** for the six months ended December 31, 2023 and 2022, respectively.

Subscription Revenue

SaaS Revenue

(in thousands, except percentages)	Three Months Ended September 30,			Three Months Ended December 31,			Six Months Ended December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change
SaaS revenue	\$ 22,256	\$ 22,628	\$ (372) (2)%	\$ 21,947	\$ 23,429	\$ (1,482)(6)%	\$ 44,203	\$ 46,057	\$ (1,854)(4)%
Percentage of total revenue	92 %	91 %		92 %	91 %		92 %	91 %	

SaaS revenue includes revenue from cloud delivery arrangements, term licenses and embedded OEM royalties and associated support. Revenue from SaaS decreased by **\$372,000** **\$1.5 million** and **\$1.9 million** during the three and six months ended **September 30, 2023** **December 31, 2023**, respectively, compared to the same period periods in fiscal year 2023. This represented a decrease in SaaS revenue of 6% and 4% for the three and six months ended December 31, 2023, respectively, compared to the same periods in fiscal year 2023. In connection with our SaaS transition, we are actively migrating our remaining perpetual license clients to SaaS and as we continue to sell SaaS to new customers.

SaaS revenue represents 92% of total revenue for the three and six months ended **September 30, 2023** **December 31, 2023**, compared to 91% during the same period in fiscal year 2023. This represented a decrease in SaaS revenue of 2% for the three months ended September 30, 2023, compared to the same period periods in fiscal year 2023.

Excluding an increase of **\$400,000** **\$312,000** and **\$713,000** due to foreign exchange rate fluctuation, SaaS revenue decreased by **\$772,000** **\$1.8 million** and **\$2.6 million** during the three and six months ended **September 30, 2023** **December 31, 2023**, respectively, compared to the same period periods in fiscal year 2023.

Legacy Revenue

(in thousands, except percentages)	Three Months Ended September 30,			Three Months Ended December 31,			Six Months Ended December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change

Legacy revenue	\$ 67	\$ 295	\$ (228)	(77)%	\$ 49	\$ 185	\$ (136)	(74)%	\$ 116	\$ 480	\$ (364)	(76)%
Percentage of total revenue	0 %	2 %			0 %	1 %			0 %	1 %		

Legacy revenue is associated with license, maintenance and support contracts on perpetual license arrangements that we no longer sell. We experienced a decrease of \$228,000 \$136,000 and \$364,000 during the three and six months ended September 30, 2023 December 31, 2023, respectively, compared to the same period periods in fiscal year 2023. This decrease was primarily due to our focus in migrating our legacy customers to SaaS. We expect these legacy fees to continue to decline in future quarters.

Excluding an increase of \$3,000 \$6,000 and \$11,000 due to foreign exchange rate fluctuation, legacy revenue decreased by \$231,000 \$142,000 and \$375,000 during the three and six months ended September 30, 2023 December 31, 2023, respectively, compared to the same period periods in fiscal year 2023.

29 32

[Table of Contents](#)

Professional Services Revenue

(in thousands, except percentages)	Three Months Ended			Three Months Ended			Six Months Ended		
	September 30,			December 31,			December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change
Professional services revenue	\$ 1,853	\$ 1,840	\$ 13 1 %	\$ 1,819	\$ 1,986	\$ (167)(8)%	\$ 3,672	\$ 3,826	\$ (154)(4)%
Percentage of total revenue	8 %	7 %		8 %	8 %		8 %	8 %	

Professional services revenue includes consulting, implementation, training, managed services and managed services, training. Revenue from professional services increased decreased by \$13,000 \$167,000 and \$154,000 during the three and six months ended September 30, 2023 December 31, 2023, respectively, compared to the same period periods in fiscal year 2023.

Excluding an increase of \$23,000 \$21,000 and \$45,000 due to foreign exchange rate fluctuation, professional services revenue decreased by \$10,000 \$188,000 and \$199,000 during the three and six months ended September 30, 2023 December 31, 2023, respectively, compared to the same period periods in fiscal year 2023.

Revenue by Geography

(in thousands, except percentages)	Three Months Ended			Three Months Ended			Six Months Ended		
	September 30,			December 31,			December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change
North America	\$ 18,989	\$ 19,120	\$ (131)(1)%	\$ 18,836	\$ 19,802	\$ (966) (5)%	\$ 37,825	\$ 38,922	\$ (1,097) (3)%

Europe, Middle East, & Africa	5,187	5,643	(456)(8)%	4,979	5,798	(819)(14)%	10,166	11,441	(1,275)(11)%
Total revenue	\$24,176	\$24,763	(\$587)(2)%	\$23,815	\$25,600	(\$1,785) (7)%	\$47,991	\$50,363	(\$2,372) (5)%

Revenue from North America sales decreased by 1% 5% from \$19.1 million \$19.8 million during the three months ended September 30, 2022 December 31, 2022 to \$19.0 million \$18.8 million during the three months ended September 30, 2023 December 31, 2023, due to a decrease of \$262,000 in legacy revenue; partially offset by increases decreases of (i) \$101,000 \$872,000 in SaaS revenue, (ii) \$48,000 in legacy revenue, and (iii) \$46,000 in professional services revenue.

Revenue from North America sales decreased by 3% from \$38.9 million during the six months ended December 31, 2022 to \$37.8 million during the six months ended December 31, 2023, due to decreases of (i) \$771,000 in SaaS revenue, (ii) \$30,000 \$310,000 in legacy revenue, and (iii) \$16,000 in professional services revenue.

Revenue from EMEA sales decreased by 8% 14% from \$5.6 million \$5.8 million for the three months ended September 30, 2022 December 31, 2022 to \$5.2 million \$5.0 million during the three months ended September 30, 2023 December 31, 2023, due to decreases of (i) \$473,000 \$610,000 in SaaS revenue, and (ii) \$17,000 \$122,000 in professional services revenue; partially offset by an increase of \$34,000 revenue, and (iii) \$88,000 in legacy revenue.

Revenue from EMEA sales decreased by 11% from \$11.4 million for the six months ended December 31, 2022 to \$10.2 million during the six months ended December 31, 2023, due to decreases of (i) \$1.1 million in SaaS revenue, (ii) \$139,000 in professional services revenue, and (iii) \$54,000 in legacy revenue.

[Table of Contents](#)

Cost of Revenue

(in thousands, except percentages)	Three Months Ended September 30,				Three Months Ended December 31,				Six Months Ended December 31,			
	2023	2022	Change		2023	2022	Change		2023	2022	Change	
	\$5,047	\$3,978	\$1,069	27 %	\$5,109	\$4,424	\$ 685	15 %	\$10,156	\$ 8,402	\$1,754	21 %
Subscription												
Professional services	1,791	2,304	(513)	(22)%	1,881	2,328	(447)	(19)%	3,672	4,632	(960)	(21)%
Total cost of revenue	\$6,838	\$6,282	\$ 556	9 %	\$6,990	\$6,752	\$ 238	4 %	\$13,828	\$13,034	\$ 794	6 %
Percentage of total revenue	28 %	25 %			29 %	26 %			29 %	26 %		
Gross margin	72 %	75 %			71 %	74 %			71 %	74 %		

Subscription

Cost of subscription revenue consists primarily of expenses related to our cloud services and providing support to our customers. These expenses are comprised of cloud computing costs, personnel-related costs directly associated with cloud operations, and customer support, including salaries, benefits, bonuses and stock-based compensation and allocated overhead.

Cost of subscription revenue increased by **\$1.1 million** **\$685,000** during the three months ended **September 30, 2023** **December 31, 2023**, from the same period in fiscal year 2023. This increase was primarily due to increases of (i) **\$749,000** **\$366,000** in cloud-computing costs, and (ii) **\$350,000** **\$222,000** in personnel-related costs; partially offset costs, and (iii) **\$82,000** in outside consulting cost.

Cost of subscription revenue increased by a decrease **\$1.8 million** during the six months ended December 31, 2023, from the same period in fiscal year 2023. This increase was primarily due to increases of (i) **\$1.1 million** in cloud-computing costs, (ii) **\$572,000** in personnel related costs, and (iii) **\$34,000** in outside consulting costs.

30

[Table of Contents](#)

Excluding an increase of **\$18,000** **\$16,000** and **\$34,000** due to foreign exchange rate fluctuation, cost of subscription revenue increased by **\$1.0 million** **\$669,000** and **\$1.7 million** during the three and six months ended **September 30, 2023** **December 31, 2023**, respectively, from the same period periods in fiscal year 2023.

Professional Services

Cost of professional services consists primarily of personnel-related costs directly associated with our professional services and training departments, including salaries, benefits, bonuses, and stock-based compensation and allocated overhead.

Cost of professional services decreased by **\$513,000** **\$447,000** during the three months ended **September 30, 2023** **December 31, 2023**, from the same period in fiscal year 2023. This decrease was primarily due to a decrease of **\$552,000** (i) **\$378,000** in personnel-related costs; partially offset costs and (ii) **\$92,000** in outside consulting costs.

Cost of professional services decreased by an increase **\$960,000** during the six months ended December 31, 2023, from the same period in fiscal year 2023. This decrease was primarily due to decreases of (i) **\$929,000** in personnel-related costs and (ii) **\$88,000** in outside consulting costs.

Excluding an increase of **\$36,000** **\$21,000** and **\$56,000** due to foreign exchange rate fluctuation, cost of professional services revenue decreased by **\$548,000** **\$468,000** and **\$1.0 million** during the three and six months ended **September 30, 2023** **December 31, 2023**, respectively, compared to the same period periods in fiscal year 2023.

34

[Table of Contents](#)

Operating Expenses

Research and Development

(in thousands, except percentages)	Three Months Ended			Change	
	September 30,				
	2023	2022			
Research and development	\$ 6,632	\$ 6,874	\$ (242)	(4)%	
Percentage of total revenue	27 %	28 %			

(in thousands, except percentages)	Three Months Ended			Change	Six Months Ended		
	December 31,		December 31,				
	2023	2022			2023	2022	Change
Research and development	\$ 6,660	\$ 7,188	\$ (528)	(7)%	\$ 13,292	\$ 14,062	\$ (770)
Percentage of total revenue	28 %	28 %			28 %	28 %	

Research and development expense primarily consists of personnel-related expenses directly associated with our engineering, product management and development, and quality assurance staff. Included in these costs are salaries, benefits, bonuses, and stock-based compensation and allocated overhead. Research and development expense also includes outside consulting services contracted for research and development.

Research and development expense decreased by **\$242,000** during 7% to **\$6.7 million** for the three months ended **September 30, 2023** December 31, 2023, from **\$7.2 million** in the same period in fiscal year 2023. This decrease was primarily due to decreases of (i) **\$153,000** in personnel-related costs and (ii) **\$113,000** in outside consulting costs.

Excluding an increase of **\$24,000** **\$26,000** due to foreign exchange rate fluctuation, research and development expense decreased primarily due to decreases of (i) **\$386,000** in personnel-related costs and (ii) **\$166,000** in outside consulting costs.

Research and development expense decreased by **\$266,000** during 5% to **\$13.3 million** for the **three six** months ended **September 30, 2023** December 31, 2023, compared to from **\$14.1 million** in the same period in fiscal year 2023. Excluding an increase of **\$49,000** due to foreign exchange rate fluctuation, research and development expense decreased primarily due to decreases of (i) **\$539,000** in personnel-related costs and (ii) **\$279,000** from outside consulting costs.

Sales and Marketing

(in thousands, except percentages)	Three Months Ended			Change	
	September 30,				
	2023	2022			
Sales and marketing	\$ 6,104	\$ 9,459	\$ (3,355)	(35)%	
Percentage of total revenue	25 %	38 %			

(in thousands, except percentages)	Three Months Ended			Change	Six Months Ended		
	December 31,		December 31,				
	2023	2022			2023	2022	Change
Sales and marketing	\$ 5,349	\$ 8,895	\$ (3,546)	(40)%	\$ 11,453	\$ 18,354	\$ (6,901)
Percentage of total revenue	22 %	35 %			24 %	36 %	

Sales and marketing expense primarily consists of personnel-related expenses directly associated with our sales, marketing and business development staff. Included in these costs are salaries, benefits, bonuses, and stock-based compensation and allocated overhead. Sales and marketing expenses also include amortization of commissions paid to our sales staff, lead generation activities, advertising, trade show and other promotional costs, and, to a lesser extent, occupancy costs and related overhead.

Sales and marketing expenses decreased by **\$3.4 million** during 40% to **\$5.3 million** for the three months ended **September 30, 2023** December 31, 2023, from **\$8.9 million** in the same period in fiscal year 2023. The decrease was Excluding an increase of **\$120,000** due to foreign exchange rate fluctuation, sales and marketing expense decreased primarily due to decreases of (i) **\$3.3 million** **\$2.5**

million in personnel-related expenses, costs, (ii) \$212,000 \$950,000 in marketing program expenses, lead generation costs, and (iii) \$20,000 \$200,000 in outside consulting expenses, costs.

Sales and marketing expenses decreased by 38% to \$11.5 million for the six months ended December 31, 2023, from \$18.4 million in the same period in fiscal year 2023. Excluding an increase of \$275,000 due to foreign exchange rate fluctuation, sales and marketing expense decreased primarily due to decreases of (i) \$5.8 million in personnel-related costs, (ii) \$1.2 million in lead generation costs, and (iii) \$219,000 in outside consulting costs.

3135

[Table of Contents](#)

Excluding an increase of \$148,000 due to foreign exchange rate fluctuation, sales and marketing expense decreased by \$3.5 million during the three months ended September 30, 2023, compared to the same period in fiscal year 2023.

General and Administrative

(in thousands, except percentages)	Three Months Ended			Change	
	September 30,				
	2023	2022			
General and administrative	\$ 3,186	\$ 2,818	\$ 368	13 %	
Percentage of total revenue	13 %	11 %			

(in thousands, except percentages)	Three Months Ended			Six Months Ended		
	December 31,		Change	December 31,		Change
	2023	2022		2023	2022	
General and administrative	\$ 2,391	\$ 2,552	\$ (161) (6)%	\$ 5,577	\$ 5,370	\$ 207 4 %
Percentage of total revenue	10 %	10 %		12 %	11 %	

General and administrative expense primarily consists of personnel-related expenses directly associated with our finance, human resources, administrative and legal personnel. Included in these costs are salaries, benefits, bonuses, and stock-based compensation and allocated overhead. General and administrative expenses also include fees for professional services, provision for doubtful accounts and, to a lesser extent, occupancy costs and related overhead.

General and administrative expenses increased/decreased by \$368,000 during 6% to \$2.4 million for the three months ended September 30, 2023 December 31, 2023, from \$2.6 million in the same period in fiscal year 2023. The increase was primarily due to increases of (i) \$755,000 in legal expenses and (ii) \$51,000 in accounting, audit, and administrative expenses; partially offset by decreases of (i) \$248,000 in personnel-related expenses, (ii) \$207,000 in bad debt expenses, (iii) \$17,000 in outside-consulting expenses, and (iv) \$2,000 in investor relations expenses.

Excluding an increase of \$36,000 \$10,000 due to foreign exchange rate fluctuation, general and administrative expense increased/decreased primarily due to decreases of (i) \$216,000 in personnel-related costs, (ii) \$80,000 in legal related costs, and (iii) \$50,000 in outside-consulting costs; partially offset by increases of (i) \$99,000 in bad debt costs and (ii) \$76,000 in accounting, audit, and administrative costs.

\$332,000 during

General and administrative expenses increased by 4% to \$5.6 million for the three/six months ended September 30, 2023 December 31, 2023, compared to from \$5.4 million in the same period in fiscal year 2023. Excluding an increase of \$44,000 due to foreign exchange rate fluctuation, general and administrative expense increased primarily due to increases of (i) \$675,000 in legal related costs and (ii)

\$127,000 in accounting, audit, and administrative costs; partially offset by decreases of (i) \$464,000 in personnel-related costs, (ii) \$106,000 in bad debt costs, and (iii) \$69,000 in outside consulting costs.

Income (Loss) from Operations

(in thousands, except percentages)	Three Months Ended September 30,			Three Months Ended December 31,			Six Months Ended December 31,		
	2023	2022	Change	2023	2022	Change	2023	2022	Change
	\$ 1,416	\$ (670)	\$ 2,086 (311)%	\$ 2,425	\$ 213	\$ 2,212 1,038 %	\$ 3,841	\$ (457)	\$ 4,298 (940)%
Income (loss) from operations	6 %	(2)%		10 %	1 %		8 %	(1)%	
Operating margin									

Income from operations was \$1.4 million \$2.4 million and \$213,000 with an operating profit margin of 6% 10% and 1% during the three months ended September 30, 2023, December 31, 2023 and 2022, respectively. Income from operations during the three months ended September 30, 2023 December 31, 2023 included \$1.2 million of stock-based compensation and \$500,000 \$345,000 of amortization of costs capitalized to obtain revenue contracts. Income from operations during the three months ended December 31, 2022 included \$1.8 million of stock-based compensation and \$395,000 of amortization of costs capitalized to obtain revenue contracts.

Income from operations was \$3.8 million with an operating profit margin of 8% during the six months ended December 31, 2023. Loss from operations was \$457,000 with an operating loss margin of 1% during the six months ended December 31, 2022. Income from operations during the six months ended December 31, 2023 included \$2.4 million of stock-based compensation and \$845,000 of amortization of costs capitalized to obtain revenue contracts. Loss from operations during the six months ended December 31, 2022 included \$3.8 million of stock-based compensation and \$770,000 of amortization of costs capitalized to obtain revenue contracts.

Interest Income

Interest income primarily consists of interest earned on money market accounts. accounts which have increased rates compared to prior years. Interest income was \$949,000 \$982,000 and \$286,000 \$529,000 during the three months ended September 30, 2023 December 31, 2023 and 2022, respectively, due to higher interest rates.

36

[Table of Contents](#)

respectively. Interest income was \$1.9 million and \$815,000 during the six months ended December 31, 2023 and 2022, respectively.

Other Income, (expense) income, Net

Other (expense) income, net was income expense of \$610,000 \$697,000 and \$810,000 \$545,000 during the three months ended September 30, 2023 December 31, 2023 and 2022, respectively. Other (expense) income, net was expense of \$87,000 and income of \$265,000 during the six months ended December 31, 2023 and 2022, respectively. Other (expense) income, net primarily included foreign exchange rate fluctuations on international trade receivables, net of transactions.

Income Tax Provision

Provision for income taxes consists of state and foreign income taxes. Due to cumulative U.S. book losses, we maintain a valuation allowance against U.S. deferred tax assets as of **September 30, 2023** December 31, 2023. We consider all available evidence, both positive and negative, including but not limited to earnings history, projected future outcomes, industry and market trends and the nature of each of the deferred tax assets. We recorded income tax provision of \$379,000 \$525,000 and \$442,000 \$904,000 for the three and six months ended **September 30, 2023** December 31, 2023, respectively. We recorded income tax provision of \$301,000 and 2022, \$743,000 for the three and six months ended December 31, 2022, respectively.

32

[Table of Contents](#)

Liquidity and Capital Resources

Overview

As of **September 30, 2023** December 31, 2023 and June 30, 2023, our principal sources of liquidity were cash and cash equivalents, restricted cash, and accounts receivable totaling \$98.3 million \$101.1 million and \$104.8 million, respectively. Our cash, cash equivalents and restricted cash were \$79.8 million \$86.8 million and \$73.2 million as of **September 30, 2023** December 31, 2023 and June 30, 2023, respectively.

Based upon our current business plan, we believe that existing capital resources will enable us to maintain current and planned operations for at least the next 12 months. From time to time, however, we may consider opportunities for raising additional capital. We can make no assurances that such opportunities will be available to us on economic terms we consider favorable, if at all. Our expectations as to our future cash flows and our future cash balances are subject to a number of assumptions, including assumptions regarding anticipated increases in our revenue, our ability to retain existing customers and customer purchasing and payment patterns, many of which are beyond our control.

Cash Flows

For the **three six** months ended **September 30, 2023** December 31, 2023 and 2022, our cash flows were as follows (in thousands):

	Three Months Ended		Six Months Ended	
	September 30,		December 31,	
	2023	2022	2023	2022
Net cash provided by operating activities	\$ 8,131	\$ 760	\$15,826	\$ 8,175
Net cash used in investing activities	(32)	(120)	(135)	(293)
Net cash (used in) provided by financing activities	(480)	30	(2,108)	1,005

Cash provided by operating activities mainly consists of net income (loss) adjusted for non-cash expense items such as depreciation and amortization, expense associated with stock-based awards, the timing of employee related costs including commissions and bonus payments, and changes in operating assets and liabilities during the year.

Net cash provided by operating activities increased by \$7.4 million \$7.7 million during the **three six** months ended **September 30, 2023** December 31, 2023, from the same period in fiscal year 2023, driven primarily by the timing of collections for accounts receivable, payments of accounts payable, and recognition of deferred revenue.

Net cash used in investing activities decreased by ~~\$88,000~~ \$158,000 during the ~~three~~six months ended ~~September 30, 2023~~ December 31, 2023, from the same period in fiscal year 2023, driven primarily by activities related to the purchase of equipment for new employees

[Table of Contents](#)

and facility expenditures. Historically, cash used in investing activities has been used to purchase equipment and software to support our business and growth.

Net cash used in financing activities ~~increased by \$510,000~~ was \$2.1 million during the ~~three~~six months ended ~~September 30, 2023~~ December 31, 2023, ~~from~~ compared to the net cash provided by financing activities of ~~\$1.0 million~~ for the same period in fiscal year 2023. Our current proceeds consist primarily of proceeds from the exercise of employee stock options, our employee stock purchase plan, and funds used for repurchases of our common stock of approximately ~~\$517,000~~ \$3.0 million.

Commitments

Our principal commitments consist of obligations under leases for office space. Lease agreements are evaluated to determine whether an arrangement is or contains a lease in accordance with ASC 842, *Leases*. As of ~~September 30, 2023~~ December 31, 2023, the future non-cancelable minimum payments under these commitments were approximately ~~\$2.5 million~~ \$2.2 million.

Off-Balance Sheet Arrangements

As of ~~September 30, 2023~~ December 31, 2023, we had no significant off-balance sheet arrangements as defined in Item 303(a)(4) of Regulation S-K.

[Table of Contents](#)

New Accounting Pronouncements

See Note 1 "Summary of Business and Significant Accounting Policies" to the condensed consolidated financial statements for our discussion of new accounting pronouncements adopted and those pending.

Item 33. Quantitative and Qualitative Disclosures about Market Risk**Foreign Currency Exchange Risk**

We develop products in the United States and India and sell these products in the United States and internationally. Generally, international sales are made in local currency. As a result, our financial results could be affected by factors such as changes in foreign currency exchange rates or weak economic conditions in foreign markets. Identifiable assets denominated in foreign currency as of **September 30, 2023** **December 31, 2023** totaled approximately **\$14.5 million** **\$17.1 million**. A 10% increase in the value of the dollar relative to other currencies would decrease the value of these assets by **\$1.4 million** **\$1.7 million** between **September 30, 2023** **December 31, 2023** and our next financial reporting period. We do not currently use derivative instruments to hedge against foreign exchange risk. As such, we are exposed to market risk from fluctuations in foreign currency exchange rates, principally from the exchange rate between the U.S. Dollar, on the one hand, and the Euro, British Pound and Indian Rupee, on the other hand. An unfavorable change in the foreign currency exchange rates may cause an adverse effect on our financial position or results of operations.

Interest Rate Risk

Our exposure to market risk for changes in interest rates relates primarily to interest earned on our cash and cash equivalents. The primary objective of our investment activities is to preserve our capital to fund operations. We also seek to maximize income from our investments without assuming significant risk. Our investment policy provides for investments in short-term, low-risk, investment-grade debt instruments. These investments are subject to interest rate risk and will decrease in value if market interest rates increase.

We currently do not hedge interest rate exposure, and we do not have any foreign currency or other derivative financial instruments. To date, we have not experienced a loss of principal on any of our investments. Although we currently expect that our ability to access or liquidate these investments as needed to support our business activities will continue, we cannot ensure that this will not change. We believe that, if market interest rates were to change immediately and uniformly by 10% from levels between **September 30, 2023** **December 31, 2023** and our next financial reporting period, the impact on the fair value of these securities or our cash flows or income would not be material.

Item 4. Controls and Procedures**Evaluation of Disclosure Controls and Procedures.**

We maintain "disclosure controls and procedures," as such term is defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the Exchange Act) that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognized that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Our disclosure controls and procedures have been designed to meet reasonable assurance standards. Additionally, in designing disclosure controls and procedures,

our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. The design of any disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

Based on their evaluation as of the end of the period covered by this Quarterly Report on Form 10-Q, our Chief Executive Officer and Chief Financial Officer have concluded that, as of **September 30, 2023** **December 31, 2023**, our disclosure controls and procedures were effective at the reasonable assurance level.

35

[Table of Contents](#)

Changes in Internal Controls.

There was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that occurred during our last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

36 39

[Table of Contents](#)

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are not currently a party to any legal proceedings, and are not aware of any pending or threatened legal proceedings against us that we believe could have a material adverse effect on our business, operating results, or financial condition. In the ordinary course of business, we are involved in various legal proceedings and claims related to alleged infringement of third-party patents and other intellectual property rights, commercial, corporate and securities, labor and employment, wage and hour, and other claims. We have been, and may in the future be, put on notice and/or sued by third parties for alleged infringement of their proprietary rights, including patent infringement.

We evaluate all claims and lawsuits with respect to their potential merits, our potential defenses and counterclaims, settlement or litigation potential and the expected effect on us. Our technologies may be subject to injunction if they are found to infringe the rights of a third party. In addition, our agreements require us to indemnify our customers for third-party intellectual property infringement claims, which could increase the cost to us of an adverse ruling on such a claim.

Item 1A. Risk Factors

The risks and uncertainties described below are not the only ones facing us. Other events that we do not currently anticipate or that we currently deem immaterial also may affect our results of operations, cash flows and financial condition.

Risks Related to Our Business and Strategy

Our business is influenced by a range of factors that are beyond our control and that we have no comparative advantage in forecasting.

Factors influencing our business include:

- general economic and business conditions;
- currency exchange rate fluctuations;
- the overall demand for enterprise software and services;
- customer acceptance of cloud-based solutions;
- governmental budgetary constraints or shifts in government spending priorities; and
- general political developments.

The global economic climate continues to influence our business. This includes items such as a general tightening in the credit markets, lower levels of liquidity, increases in the rates of default and bankruptcy, and extreme volatility in credit, equity and fixed income markets. These macroeconomic developments negatively affected, and could continue to negatively affect, our business, operating results or financial condition which, in turn, could adversely affect our stock price. A general weakening of, and related declining corporate confidence in, the global economy or the curtailment in government or corporate spending could cause current or potential customers to reduce their technology budgets or be unable to fund software or services purchases, which could cause customers to delay, decrease or cancel purchases of our products and services or cause customers to not pay us or to delay paying us for previously purchased products and services.

Our revenue and operating results have fluctuated in the past and are likely to fluctuate in the future, and because we recognize revenue from subscriptions over a period of time, downturns in revenue may not be immediately reflected in our operating results.

Because we recognize revenue when we have satisfied performance obligations to customers in connection with our sales contracts, most of our revenue each quarter results from recognition of deferred revenue related to agreements entered into during previous quarters. Consequently, declines in new or renewed subscription agreements and maintenance agreements that occur in one quarter will largely be felt in future quarters, both because we may be unable to generate sufficient new revenue to offset the decline and because we may be unable to adjust our operating costs and capital expenditures to align

3740

[Table of Contents](#)

with the changes in revenue. In addition, our subscription model makes it more difficult for us to increase our revenue rapidly in any period, because revenue from new customers must be recognized over the applicable subscription term. It is difficult to forecast the expediency of the transition of our license customers to our cloud delivery model. Accordingly, we believe that period-to-period comparisons of our results of operations should not be relied upon as definitive indicators of future performance.

Other factors that may cause our revenue and operating results to fluctuate include:

- timing of customer budget cycles;
- the priority our customers place on our products compared to other business investments;
- size, timing and contract terms of new customer contracts, and unpredictable and often lengthy sales cycles;
- reduced renewals;

- competitive factors, including new product introductions, upgrades and discounted pricing or special payment terms offered by our competitors, as well as strategic actions by us or our competitors, such as acquisitions, divestitures, spin-offs, joint ventures, strategic investments or changes in business strategy;
- technical difficulties, errors or service interruptions in our solutions that may cause customer dissatisfaction with our solutions;
- consolidation among our customers, which may alter their buying patterns, or business failures that may reduce demand for our solutions;
- operating expenses associated with expansion of our sales force or business, and our product development efforts;
- cost, timing and management efforts related to the introduction of new features to our solutions;
- our ability to obtain, maintain and protect our intellectual property rights and adequately safeguard the information imported to our solutions or otherwise provided to us by our customers; and
- extraordinary expenses such as impairment charges, litigation or other payments related to settlement of disputes.

Any of these developments may adversely affect our revenue, operating results and financial condition. Furthermore, we maintain an allowance for doubtful accounts for estimated credit losses resulting from the inability of our customers to make required payments. In such cases, we may be required to defer revenue recognition on sales to affected customers. In the future, we may have to record additional reserves or write-offs, or defer revenue on sales transactions, which could negatively impact our financial results.

We cannot accurately predict subscription renewal rates and the impact these rates may have on our future revenue and operating results.

We allow our customers to elect not to renew their subscriptions for our service after the expiration of their initial subscription period, which is typically 12 to 36 months, and some customers have elected not to renew. In addition, our customers may choose to renew for fewer subscriptions (in quantity or products) or renew for shorter contract lengths. We cannot accurately predict renewal rates given our varied customer base of enterprise and small and medium size business customers and the number of multiyear subscription contracts. Our renewal rates may decline or fluctuate as a result of a number of factors, including customer dissatisfaction with our service, decreases in customers' spending levels, decreases in the number of users at our customers, pricing changes and general economic conditions. If our customers do not renew their subscriptions for our service or reduce the number of paying subscriptions at the time of renewal, our revenue will decline, and our business will suffer.

Our future success also depends in part on our ability to sell additional features and services, more subscriptions or enhanced editions of our service to our current customers. This may also require increasingly sophisticated and costly sales efforts that are targeted at senior management. Similarly, the rate at which our customers purchase new or enhanced services depends on a number of factors, including general economic conditions and our customers' reactions to price changes related to these additional features and services. If our efforts to upsell to our customers are not successful and negative reaction occurs, our business may suffer.

38 41

[Table of Contents](#)

Our lengthy sales cycles and the difficulty in predicting timing of sales or delays may impair our operating results.

The long sales cycle for our products may cause license and subscription revenue and operating results to vary significantly from period to period. The sales cycle for our products can be six months or more and varies substantially from customer to customer. Because we sell complex and deeply integrated solutions, it can take many months of customer education to secure sales. Since our potential customers may evaluate our products before, if ever, executing definitive agreements, we may incur substantial expenses and spend significant management and legal effort in connection with a potential customer.

Our multi-product offering and the increasingly complex needs of our customers contribute to a longer and unpredictable sales cycle. Consequently, we often face difficulty predicting the quarter in which expected sales will actually occur. This contributes to the uncertainty

and fluctuations in our future operating results. In particular, the corporate decision-making and approval process of our customers and potential customers has become more complicated. This has caused our average sales cycle to further increase and, in some cases, has prevented the closure of sales that we believed were likely to close.

Because we depend on a relatively small number of customers for a substantial portion of our revenue, the loss of any of these customers or our failure to attract new significant customers could adversely impact our revenue and harm our business.

We have in the past and expect in the future to derive a substantial portion of our revenue from sales to a relatively small number of customers. The composition of these customers has varied in the past, and we expect that it will continue to vary over time. The loss of any significant customer or a decline in business with any significant customer would materially and adversely affect our financial condition and results of operations.

The market for customer engagement software, including generative AI product offerings, is competitive, and our business will be adversely affected if we are unable to successfully compete.

The market for customer engagement software is intensely competitive. Other than product innovation and existing customer relationships, there are no substantial barriers to entry in this market, and established or new entities may enter this market in the future. While software internally developed by enterprises represents indirect competition, we also compete directly with packaged application software vendors, including Genesys Telecommunications Laboratories, Inc., LivePerson, Inc., NICE Ltd., and Verint Systems Inc. In addition, we face actual or potential competition from larger software companies such as Microsoft Corporation, Oracle Corporation, salesforce.com Inc., and ServiceNow, Inc., and similar companies that may attempt to sell customer engagement software to their installed base.

We believe that competition will continue to be fierce as current competitors increase the sophistication of their offerings and as new participants enter the market. Many of our current and potential competitors have longer operating histories, larger customer bases, broader brand recognition, and significantly greater financial, marketing and other resources. With more established and better-financed competitors, these companies may be able to undertake more extensive marketing campaigns, adopt more aggressive pricing policies, and make more attractive offers to businesses to induce them to use their products or services. If we are unable to compete successfully, our business will be adversely affected.

We are also investing in AI across the entire company and infusing generative AI capabilities into our product and service offerings. We expect AI technology and services to be a highly competitive and rapidly evolving market. We will bear significant development and operational costs to build and support the generative AI capabilities, products, and services necessary to meet the needs of our customers. To compete effectively, we must also be responsive to technological change, potential regulatory developments, and public scrutiny. Such competitive pressure may cause decreased sales volumes, price reductions, and/or increased operating costs, such as for research and development, marketing, and sales activities. This may lead to lower revenue, gross margins, and operating income. In addition, customers are currently assessing their AI utilization strategy, so it is difficult to estimate with any reasonable degree of precision the impact of generative AI product offerings on our future revenue or expected demand for our products.

39 42

[Table of Contents](#)

If we fail to expand and improve our sales performance and marketing activities, or retain our sales and marketing personnel, we may be unable to grow our business, which could negatively impact our operating results and financial condition.

Expansion and growth of our business is dependent on our ability to expand our sales force and on the ability of our sales force to increase sales. If we are not able to effectively develop and maintain awareness of our products in a cost-effective manner, we may not achieve widespread acceptance of our existing and future products. This may result in a failure to expand and attract new customers and

enhance relationships with existing customers. This may impede our efforts to improve operations in our other areas and may result in declines in the market price of our common stock.

Due to the complexity of our customer engagement hub platform and related products and services, we must utilize highly trained sales personnel to educate prospective customers regarding the use and benefits of our products and services as well as provide effective customer support. If we have turnover in our sales and marketing teams, we may not be able to successfully compete with our competitors, and our results of operations and financial condition may be harmed.

Our failure to maintain, develop or expand strategic and third-party distribution channels would impede our revenue growth.

Our success and future growth depend in part upon the skills, experience, performance and continued service of our distribution partners, including software and hardware vendors and resellers. Our distribution partners engage with us in a number of ways, including assisting us to identify prospective customers, distributing our products and services in geographies where we do not have a physical presence and distributing our products and services where they are considered complementary to other products of the partner or third-party products distributed by the partner. We believe that our future success depends in part upon our ability to develop, maintain and expand strategic, long-term and profitable partnerships and reseller relationships. If we are unable to do so for any reason, including as a result of any change in the leadership of our distribution partners, or if any existing or future distribution partners fail to successfully market, resell, implement or support our products for their customers, or if distribution partners represent multiple providers and devote greater resources to market, resell, implement and support competing products and services, our future revenue growth could be impeded.

We sometimes rely on distribution partners to recommend our products to their customers. We likewise depend on broad market acceptance by these distribution partners of our product and service offerings. Our agreements generally do not prohibit competitive offerings and our distribution partners may develop market or recommend software applications that compete with our products. To the extent we devote resources to these relationships and the partnerships do not proceed as anticipated or provide revenue or other results as anticipated, our business may be harmed. Once partnerships are forged, there can be no guarantee that such relationships will be renewed in the future or available on acceptable terms. If we lose strategic third-party relationships, fail to renew or develop new relationships, or fail to fully exploit revenue opportunities within such relationships, our results of operations and future growth may suffer.

Difficulties and delays in customers implementing our products could harm our revenue and margins.

We generally recognize revenue upon the transfer of control of promised services to our customers in the amount that is commensurate with the consideration that we expect to receive in exchange for those services. If an arrangement requires significant customization or implementation services from us, recognition of the associated license or subscription and service revenue could be delayed. The timing of the commencement and completion of these services is subject to factors that may be beyond our control, as this process may require access to the customer's facilities and coordination with the customer's personnel after delivery of the software. In addition, customers could cancel or delay product implementations. Implementation typically involves working with sophisticated software, computing and communications systems. If we experience difficulties with implementation or do not meet project milestones in a timely manner, we could be obligated to devote more customer support, engineering and other resources to a particular project. Some customers may also require us to develop customized features or capabilities. If new or existing customers cancel or have difficulty deploying our products or require significant amounts of our professional services, support, or customized features, revenue recognition could be cancelled or further delayed and our costs could increase, causing increased variability in our operating results.

40 43

[Table of Contents](#)

Implementation services may be performed by our own staff, by a third-party partner or by a combination of the two. Our strategy is to work with partners to increase the breadth of capability and depth of capacity for delivery of these services to our customers, and we expect the number of our partner-led implementations to continue to increase over time. If a customer is not satisfied with the quality of

work performed by us or a partner or with the type of professional services or functionality delivered, even if we are not contractually responsible for the partner services, then we could incur additional costs to address the situation, the profitability of that work might be impaired and the customer's dissatisfaction with our or our partner's services could damage our ability to expand the scope of functionality subscribed to by that customer. In addition, negative publicity related to our customer relationships, regardless of its accuracy, may further damage our business by affecting our ability to compete for new business with current and prospective customers.

We conduct a significant portion of our business and operations outside of the United States, which exposes us to additional risks that may not exist in the United States. These risks in turn could cause our operating results and financial condition to suffer.

We derived 21% and 23% of our revenue from our EMEA sales during the three and six months ended September 30, 2023 December 31, 2023 respectively, consistent with the three and 2022, respectively six months ended December 31, 2022. In addition to those discussed elsewhere in this section, our EMEA sales operations are subject to a number of specific risks, such as:

- general economic conditions in each country or region in which we do or plan to do business;
- foreign currency fluctuations and imposition of exchange controls;
- changes in data privacy laws including European Union's General Data Protection Regulation (GDPR);
- difficulty and costs in staffing and managing our international operations;
- difficulties in collecting accounts receivable and longer collection periods;
- health or similar issues, such as a pandemic or epidemic;
- various trade restrictions and tax consequences;
- hostilities in various parts of the world, including the war in Ukraine; and
- reduced intellectual property protections in some countries.

Any of the above risks could adversely affect our international operations, reduce our revenue from customers outside of the United States or increase our operating costs, each of which could adversely affect our business, results of operations, financial condition, and growth prospects.

As of September 30, 2023 December 31, 2023 approximately 46% of our workforce was employed in India. Of our employees in India, 51% are allocated to research and development. Although the movement of certain operations internationally was principally motivated by cost cutting, the continued management of these remote operations requires significant management attention and financial resources that could adversely affect our operating performance. In addition, with the significant increase in the numbers of foreign businesses that have established operations in India, the competition to attract and retain employees there has increased significantly. As a result of the increased competition for skilled workers, we experienced increased compensation costs and expect these costs to increase in the future. Our reliance on our workforce in India makes us particularly susceptible to disruptions in the business environment in that region. In particular, sophisticated telecommunications links, high-speed data communications with other eGain offices and customers, and overall consistency and stability of our business infrastructure are vital to our day-to-day operations, and any impairment of such infrastructure will cause our financial condition and results to suffer. In addition, the maintenance of stable political relations between the United States, the European Union (EU) and India are also of great importance to our operations.

Any of these risks could have a significant impact on our product development, customer support, or professional services. To the extent the benefit of maintaining these operations abroad does not exceed the expense of establishing and maintaining such activities, our operating results and financial condition will suffer.

41 44

[Table of Contents](#)

Unplanned system interruptions, delays in service or inability to increase capacity, including internationally, at our third-party data center facilities could impair the use or functionality of our cloud operations and harm our business.

Our customers have in the past experienced some interruptions with our cloud operations. We believe that these interruptions will continue to occur from time to time. These interruptions could be due to hardware and operating system failures. As a result, our business will suffer if we experience frequent or long system interruptions that result in the unavailability or reduced performance of our hosted operations or reduce our ability to provide remote management services. We expect to experience occasional temporary capacity constraints due to sharply increased traffic or other Internet-wide disruptions, which may cause unanticipated system disruptions, slower response times, impaired quality, and degradation in levels of customer service. If this were to continue to happen, our business and reputation could be seriously harmed.

Our success largely depends on the efficient and uninterrupted operation of our computer and communications hardware and network systems. We currently serve our customers from third-party data center facilities operated by third parties in the United States and other international locations. Any damage to, or failure of, our systems generally could interrupt service or impair the use or functionality of our cloud operations. In addition, as we continue to increase the number of customers and users on our cloud operations, we will need to increase the capacity of our data center infrastructure. If we do not increase our capacity in a timely manner, customers could experience interruptions or delays in access to our cloud operations. Customer data that we store in third party data centers may also be vulnerable to damage or interruption from floods, fires, earthquake, power loss, telecommunications failures and similar events. Any damage to, or failure of, our systems, or those of our third-party data centers, could result in impairment of or interruptions in our service. Impairment or interruptions in our service may reduce our revenue, cause us to issue credits or pay penalties, cause customers to terminate their subscriptions and adversely affect our renewal rate and our ability to attract new customers. Our business will also be harmed if our customers and potential customers believe our cloud operations are unreliable.

We maintain a business continuity plan for our customers in the event of an outage. We maintain other co-locations for the purpose of disaster recovery as well as maintaining backups of our customer's information. We provide premium disaster recovery and standard disaster recovery to our customers. If a customer opts not to pay for premium disaster recovery, we will only assure that their data is available within 72 hours. This delay could cause severe disruptions to our customers' customers and may result in customer termination of our solutions. Our premium disaster recovery service provides for an alternative data center and a return to operations within one business day.

We have entered into support obligations with our customers that require minimum performance standards, including standards regarding the response time of our support services. If we fail to meet these standards, our customers could terminate their relationships with us, and we could be subject to contractual refunds, and exposure to claims for losses by customers.

Software errors could be costly and time-consuming for us to correct, and could harm our reputation and impair our ability to sell our solutions.

Our solutions are based on complex software that may contain errors, or "bugs," that could be costly to correct, harm our reputation and impair our ability to sell our solutions to new customers. Moreover, customers relying on our solutions may be more sensitive to such errors, and potential security vulnerabilities and business interruptions for these applications. If we incur substantial costs to correct any errors of this nature, our operating margins could be adversely affected. Because our customers depend on our solutions for critical business functions, any service interruptions could result in lost or delayed market acceptance and lost sales, higher service-level credits and warranty costs, diversion of development resources and product liability suits.

The terms we agree to in our Service Level Agreements or other contracts may result in increased costs or liabilities, which would in turn affect our results of operations.

Our Service Level Agreements provide for service credits for system unavailability, and in some cases, indemnities for loss, damage or costs resulting from use of our system. If we were required to provide any of these in a material way, our results of operations would suffer.

If we are unable to increase the profitability of subscription revenue, if we experience significant customer attrition, or if we are required to delay recognition of revenue, our operating results could be adversely affected.

We have invested, and expect to continue to invest, substantial resources to expand, market, implement and refine our cloud offerings. If we are unable to increase the volume of our subscription business, we may not be able to achieve sustained profitability.

Factors that could harm our ability to improve our gross margins, which may affect our operating profitability, include:

- increased costs to license and maintain third party software embedded in our software applications or the cost to create or substitute such third-party software if it can no longer be licensed on commercially reasonable terms;
- our inability to maintain or increase the prices customers pay for our products and services based on competitive pricing pressures and general economic conditions limiting customer demand;
- increased cost of third-party services providers, including data centers for our cloud operations and professional services contractors performing implementation and technical support services to cloud customers;
- customer contractual requirements that delay revenue recognition until customer implementations commence production operations or customer-specific requirements are met;
- significant attrition as customers decide for their own economic or other reasons to not renew their subscription contracts when they are up for renewal negatively impacting the efficiency of our data centers and leading to the costs being spread over fewer customers negatively impacting gross margin; and
- the inability to implement, or delays in implementing, technology-based efficiencies and efforts to streamline and consolidate processes to reduce operating costs.

We depend on broad market acceptance of our applications and of our business model. If our expectations regarding the market for our applications are not met, our business could be seriously harmed.

We depend on the widespread acceptance and use of our applications as an effective solution for businesses seeking to manage high volumes of customer interactions across multiple channels, including Web, phone, email, print and in-person. While we believe the potential to be very large, we cannot accurately estimate the size or growth rate of the potential market for such product and service offerings generally, and we do not know whether our products and services in particular will achieve broad market acceptance. The market for customer engagement software is rapidly evolving, and concerns over the security and reliability of online transactions, the privacy of users and quality of service or other issues may inhibit the growth of the Internet and commercial online services. If the market for our applications fails to grow or grows more slowly than we currently anticipate, our business will be seriously harmed.

Furthermore, our business model is premised on business assumptions that are still evolving. Our business model assumes that both customers and companies will increasingly elect to communicate through multiple channels, as well as demand integration of the online channels into the traditional telephone-based call center. If any of these assumptions is incorrect or if customers and companies do not adopt digital technology in a timely manner, our business will be seriously harmed and our stock price will decline.

We may be unable to respond to the rapid technological change and changing customer preferences in the online sales, marketing, customer service, and/or online consumer services industries and this may cause our business to suffer.

If we are unable, for technological, legal, financial or other reasons, to adapt in a timely manner to changing market conditions in the online sales, marketing, customer service and/or e-commerce industry or our customers' or Internet users' requirements or preferences,

our business, results of operations and financial condition would be materially and adversely affected. Business on the Internet is characterized by rapid technological change. In addition, the market for online sales, marketing, customer service and expert advice solutions is relatively new. Changes in customer and Internet user requirements and preferences, frequent new product and service introductions embodying new technologies and the emergence of new industry standards and practices such as but not limited to security standards could render our services and our proprietary technology and systems obsolete. The rapid evolution of these products and services will require that

43

[Table of Contents](#)

we continually improve the performance, features and reliability of our services. Our success will depend, in part, on our ability to:

- enhance the features and performance of our services;
- develop and offer new services that are valuable to companies; and
- respond to technological advances and emerging industry standards and practices in a cost-effective and timely manner.

If any of our new services, including upgrades to our current services, do not meet our customers' expectations, our business may be harmed. Updating our technology may require significant additional capital expenditures and could materially and adversely affect our business, results of operations and financial condition.

If new services require us to grow rapidly, this could place a significant strain on our managerial, operational, technical and financial resources. In order to manage our growth, we could be required to implement new or upgraded operating and financial systems, procedures and controls. Our failure to expand our operations in an efficient manner could cause our expenses to grow, our revenue to decline or grow more slowly than expected and could otherwise have a material adverse effect on our business, results of operations and financial condition.

We employ third-party technologies for use in or with our platform and the inability to license such technologies on commercially reasonable terms or the inability to maintain these licenses or errors in the software we license could result in increased costs, or reduced service levels, which could adversely affect our business.

Our platform incorporates certain third-party software obtained under licenses from other companies, and we use third-party software development tools as we continue to develop and enhance our platform. We anticipate that we will continue to rely on such third-party software in the future. Although we believe that there are commercially reasonable alternatives to the third-party software we currently license, this may not always be the case, or it may be difficult or costly to replace such software. In addition, integration of the software used in our platform with new third-party software may require significant work and require substantial investment of our time and resources. Also, to the extent that our platform depends upon the successful operation of third-party software in conjunction with our software, any undetected errors or defects in this third-party software could prevent the deployment or impair the functionality of our platform, delay new feature introductions, result in a failure of our functionality, and injure our reputation. Our use of additional or alternative third-party software would require us to enter into license agreements with third parties. To the extent we need to license third-party technologies, we may be unable to do so on commercially reasonable terms or at all.

Third-party licenses may expose us to increased risks, including risks associated with the integration of new technology, the diversion of resources from the development of our own proprietary technology, and our inability to generate revenue from new technology sufficient to offset associated acquisition and maintenance costs. In the event that we are not able to maintain our licenses to third-party software, or cannot obtain licenses to new software as needed, or in the event third-party software used in conjunction with our platform contains errors or defects, our business, operating results, and financial condition may be adversely affected.

47

[Table of Contents](#)

Our offshore product development, support and professional services may prove difficult to manage or may not allow us to realize our cost reduction goals, produce effective new solutions and provide professional services to drive growth.

We use offshore resources to perform new product and services development and provide support and professional consulting efforts, which requires detailed technical and logistical coordination. We must ensure that our international resources and personnel are aware of and understand development specifications and customer support, as well as implementation and configuration requirements and that they can meet applicable timelines. If we are unable to maintain acceptable standards of quality in support, product development and professional services, our attempts to reduce costs and drive growth through new products and margin improvements in technical support and professional services may be negatively impacted, which would adversely affect our results of operations. Outsourcing services to offshore providers may expose us to misappropriation of our intellectual property or that of our customers, or make it more difficult to defend intellectual property rights in our technology.

44

[Table of Contents](#)

If we are unable to hire and retain key personnel, our business and results of operations would be negatively affected.

Our success will depend in large part on the skills, experience and performance of our senior management, engineering, sales, marketing and other key personnel. The loss of the services of any of our senior management or other key personnel, including our Chief Executive Officer and co-founder, Ashutosh Roy, could harm our business. Additionally, in the technology industry, there is substantial and continuous competition for highly skilled business, product development, technical and other personnel. We may also experience increased compensation costs that are not offset by either improved productivity or higher sales. Our failure to recruit new personnel and to retain and motivate existing personnel could have significant negative effects on us, including impairing our ability to expand our business, and our results of operations could suffer.

We may not be able to realize the benefits of offering the limited, free “Innovation in 30 days” version of our service.

We offer a limited version of our subscription service to customers or potential customers free of charge (known as “Innovation in 30 days”) in order to promote usage, brand and product awareness, and adoption, and we invest time and resources for such initial engagements without compensation from the customers. Some customers never enter into a definitive contract for our paid subscription service despite the time and effort we may have expended on such initiatives. To the extent that these customers do not become paying customers, we will not realize the intended benefits of this marketing effort, and our ability to grow our business and revenue may be harmed.

We may not be able to raise additional capital on acceptable terms, if at all, or without dilution to our stockholders which could limit our ability to grow our business and expand our operations.

Our working capital requirements in the foreseeable future are subject to numerous risks and will depend on a variety of factors. We may seek additional funding to finance our operations or should we make acquisitions. We may also need to secure additional financing due to unforeseen or unanticipated market conditions. We may try to raise additional funds through public or private financings, strategic relationships, or other arrangements. Such financing may be difficult to obtain on terms acceptable to us, if at all. If we raise additional funds through the issuance of equity or convertible securities, then the issuance could result in substantial dilution to existing

stockholders. If we raise additional funds through the issuance of debt securities or preferred stock, these new securities would have rights, preferences, and privileges senior to those of the holders of our common stock. In addition, the terms of these securities could impose restrictions on our operations. If we are not able to raise additional funds on terms acceptable to us, if and when needed, our ability to fund our operations, take advantage of opportunities, and develop or expand our business could be significantly limited.

[Table of Contents](#)

Our reserves may be insufficient to cover receivables we are unable to collect.

We assume a certain level of credit risk with our customers in order to do business. Conditions affecting any of our customers could cause them to become unable or unwilling to pay us in a timely manner, or at all, for products or services we have already provided them. In the past, we have experienced collection delays from certain customers, and we cannot predict whether we will continue to experience similar or more severe delays in the future. Although we have established reserves to cover losses due to delays or inability to pay, there can be no assurance that such reserves will be sufficient to cover our losses. If losses due to delays or inability to pay are greater than our reserves, it could harm our business, operating results and financial condition.

If we acquire companies or technologies, we may not realize the expected business benefits, the acquisitions could prove difficult to integrate, disrupt our business and adversely affect our operations.

As part of our business strategy, we periodically make investments in, or acquisitions of, complementary businesses, joint ventures, services and technologies and intellectual property rights, and we expect that we will continue to make such investments and acquisitions in the future. Acquisitions and investments involve numerous risks, including:

- the potential failure to achieve the expected benefits of the combination or acquisition;
- difficulties in and the cost of integrating operations, technologies, services and personnel;

[Table of Contents](#)

- diversion of financial and managerial resources from existing operations;
- risks of entering new markets in which we have little or no experience or where competitors may have stronger market positions;
- potential write-offs of acquired assets or investments, and potential financial and credit risks associated with acquired customers;
- potential loss of key employees;
- inability to generate sufficient revenue to offset acquisition or investment costs;
- the inability to maintain relationships with customers and partners of the acquired business;
- the difficulty of transitioning the acquired technology onto our existing platforms and maintaining the security standards consistent with our other services for such technology;
- potential unknown liabilities associated with the acquired businesses;
- unanticipated expenses related to acquired technology and its integration into existing technology;

- negative impact to our results of operations because of the depreciation and amortization of amounts related to acquired intangible assets, fixed assets and deferred compensation, and the loss of acquired deferred revenue and unbilled deferred revenue;
- delays in customer purchases due to uncertainty related to any acquisition;
- the need to implement controls, procedures and policies at the acquired company;
- challenges caused by distance, language and cultural differences;
- in the case of foreign acquisitions, the challenges associated with integrating operations across different cultures and languages and any currency and regulatory risks associated with specific countries; and
- the tax effects of any such acquisitions.

We may be subject to legal liability and/or negative publicity for the services provided to consumers through our technology platforms.

Our technology platforms enable representatives of our customers as well as individual service providers to communicate with consumers and other persons seeking information or advice on the Internet. The law relating to the liability of online

49

[Table of Contents](#)

platform providers such as us for the activities of users of their online platforms is often challenged in the U.S. and internationally. We may be unable to prevent users of our technology platforms from providing negligent, unlawful or inappropriate advice, information or content through our technology platforms, or from behaving in an unlawful manner, and we may be subject to allegations of civil or criminal liability for negligent, fraudulent, unlawful or inappropriate activities carried out by users of our technology platforms.

Claims could be made against online services companies under both U.S. and foreign law such as fraud, defamation, libel, invasion of privacy, negligence, copyright or trademark infringement, or other theories based on the nature and content of the materials disseminated by users of our technology platforms. In addition, domestic and foreign legislation has been proposed that could prohibit or impose liability for the transmission over the Internet of certain types of information. Our defense of any of these actions could be costly and involve significant time and attention of our management and other resources.

The Digital Millennium Copyright Act (DMCA) is intended, among other things, to reduce the liability of online service providers for listing or linking to third-party web properties that include materials that infringe copyrights or rights of others. Additionally, portions of the Communications Decency Act (CDA) are intended to provide statutory protections to online service providers who distribute third party content. A safe harbor for copyright infringement is also available under the DMCA to certain online service providers that provide specific services, if the providers take certain affirmative steps as set forth in the DMCA. Certain questions regarding the safe harbor under the DMCA and the CDA have yet to be litigated, and we cannot guarantee that we will meet the safe harbor requirements of the DMCA or of the CDA. If we are

46

[Table of Contents](#)

not covered by a safe harbor, for any reason, we could be exposed to claims, which could be costly and time-consuming to defend.

If our cybersecurity systems or the systems of our vendors, partners and suppliers are breached and unauthorized access is obtained to a customer's data or our data or IT systems, our service may be perceived as not being secure, customers may curtail or stop using our service and we may incur significant legal and financial exposure and liabilities.

Security incidents have become more prevalent across industries and may occur on our systems. Our service involves the storage and transmission of customers' proprietary information, and security incidents could expose us to a risk of loss of this information, loss of access, litigation and possible liability. The techniques used to effect unauthorized penetration of computer systems are constantly evolving and have been increasing in sophistication. While we have security measures in place that are designed to protect customer information and prevent data loss and other security breaches, these security measures may be breached as a result of third-party action, including intentional misconduct by computer hackers (which may involve nation states and individuals sponsored by them), employee error, malfeasance or otherwise and result in someone obtaining unauthorized access to our customers' data or our data, including our intellectual property and other confidential business information, or our IT systems. Additionally, third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as **User names, usernames**, passwords or other information in order to gain access to our customers' data or our data or IT systems.

Employees or contractors have introduced vulnerabilities in, and enabled the exploitation of, our IT environments in the past and may do so in the future. These cybersecurity attacks threaten to misappropriate our proprietary information, cause interruptions of our IT services and commit fraud. Because the techniques used to obtain unauthorized access, or to sabotage systems, change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Further, if unauthorized access or sabotage remains undetected for an extended period of time, the effects of such breach could be exacerbated.

In addition, our customers may authorize third party access to their customer data located in our cloud environment. Because we do not control the transmissions between customer authorized third parties, or the processing of such data by customer authorized third parties, we cannot ensure the integrity or security of such transmissions or processing.

[Table of Contents](#)

Cybersecurity attacks could require significant expenditures of our capital and diversion of our resources. If these attacks are successful, they could result in the theft of proprietary, personally identifiable, confidential and sensitive information of ours, our employees, our customers and our business partners, and could materially disrupt business for us, our customers and our business partners. A successful cybersecurity attack involving our data center, network or software products could also negatively impact the market perception of the effectiveness of our products or lead to contractual disputes, litigation or government regulatory action against us, any of which could materially adversely affect our business, reputation and resulting operations.

We may also experience disruptions, outages, and other performance problems on our systems due to service attacks, unauthorized access, or other security-related incidents. For example, third parties may conduct attacks designed to temporarily deny customers access to our services. Any successful denial of service attack could result in a loss of customer confidence in the security of our platform and damage to our brand.

Our platform involves the storage and transmission of our customers' information, which may **including include** their business and financial data. As a result, unauthorized access to customer data or security breaches could result in the loss, or unauthorized dissemination, of such data, which could seriously harm our or our customers' businesses and reputations. Any of these security incidents could negatively affect our ability to attract new customers, cause existing customers to elect to not renew their subscriptions, result in reputational damage or subject us to third-party lawsuits, regulatory fines, or other action or liability, which could adversely affect our operating results. Any insurance coverage we may have related to security and privacy damages may not be adequate for liabilities actually incurred and we cannot be certain that insurance will continue to be available to us on economically reasonable terms, or at all.

These risks are likely to increase as we continue to grow the scale and functionality of our platform and process, store, and transmit increasingly large amounts of our customers' information and data, which may include proprietary or confidential data or personal or identifying information.⁴⁷

information⁴⁷.

[Table of Contents](#)

Changes in the European regulatory environment regarding privacy and data protection regulations, such as the GDPR, could expose us to risks of noncompliance and costs associated with compliance.

We have in the past relied on adherence to the U.S. Department of Commerce's Safe Harbor Privacy Principles, the U.S.- EU and U.S.- Swiss Safe Harbor Frameworks, and their successors, the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, as agreed to and set forth by the U.S. Department of Commerce, and the EU and Switzerland, which established a means for legitimating the transfer of personally identifiable information (PII) by U.S. companies doing business in Europe from the European Economic Area (EEA) and Switzerland to the U.S. However, as a result of the October 6, 2015 EU Court of Justice (ECJ), opinion in Case C-362/14 (Schrems v. Data Protection Commissioner) regarding the adequacy of the U.S.-EU Safe Harbor Framework, and the July 16, 2020 ECJ judgment in Case C-311/18 (Data Protection Commissioner v Facebook Ireland Limited and Maximillian Schrems) regarding the adequacy of the Privacy Shield Framework, both frameworks are no longer deemed to constitute a valid method of compliance with restrictions set forth in European law regarding the transfer of data outside of the EEA. We are therefore required to rely on alternative mechanisms permitted under European law, such as consent and approved standard contractual clauses. The standard contractual clauses approved by the European Commission for these purposes have recently been replaced and a significant repapering exercise is therefore required. The UK is also currently consulting on its own updated version of the standard contractual clauses and the result of this may be that different standard contractual clauses are needed depending on the origin of the PII.

While we have sought to implement appropriate transfer mechanisms following the invalidation of the Safe Harbor and Privacy Shield frameworks, owing to the significant changes that are ongoing in this area, we may be unsuccessful in establishing legitimate means of transferring data from the EEA or UK to the U.S. Moreover, further challenges may be raised against the transfer mechanisms that we have adopted which may require future adaptation. We may also experience hesitancy, reluctance, or refusal by European or multi-national customers to continue to use our services due to the potential risk exposure to such customers as a result of the international legal developments. We and our customers are at risk of enforcement actions taken by an EU or UK data protection authority until such point in time that we ensure that all data transfers to us from the EEA and UK are legitimized. We may find it necessary to establish systems to maintain EU/UK-origin data in the EEA or UK, which may involve substantial expense and distraction from other aspects of our business.

51

[Table of Contents](#)

We publicly post our privacy policies and practices concerning our processing, use and disclosure of PII. Our publication of our privacy policy and other public statements that provide promises and assurances about privacy and security can subject us to potential governmental action if they are found to be deceptive or misrepresentative of our practices. Further, the costs of compliance with, and

other burdens imposed by, such laws, regulations and policies that are applicable to us may limit the use and adoption of our products and solutions and could have a material adverse impact on our results of operations.

Privacy concerns and laws, evolving regulation of cloud computing and other domestic or foreign regulations may limit the use and adoption of our solutions and adversely affect our business.

Further to the above, regulation related to the provision of services on the Internet is increasing, as federal, state and foreign governments continue to adopt new laws and regulations addressing data privacy and the collection, processing, storage and use of personal information. Further, laws are increasingly aimed at the use of personal information for marketing purposes, such as the EU's e-Privacy Directive (which is set to be replaced by a new EU e-Privacy Regulation which will have a "direct effect" in each EU Member State), and the country-specific regulations that implement that directive. These and other requirements could reduce demand for our solutions or restrict our ability to store and process data or, in some cases, impact our ability to offer our services and solutions in certain locations.

In the U.S., California enacted the California Consumer Privacy Act (CCPA) on June 28, 2018, which went into effect on January 1, 2020. The CCPA gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. On November 3, 2020, California passed the California Privacy Rights Act (CPRA), which became effective on January 1, 2023 and amends and expands the CCPA, including the introduction of sensitive personal information as a new regulated dataset in California that is subject to new disclosure and purpose limitation requirements. Additionally, the Virginia Consumer Data Protection Act (VCDPA) became effective on January 1, 2023,

[Table of Contents](#)

the Colorado Privacy Act and the Connecticut Data Privacy Act both become effective on July 1, 2023, and the Utah Consumer Privacy Act will become effective on December 31, 2023. Furthermore, New York enacted the Stop Hacks and Improve Electronic Data Security Act (SHIELD Act), which became effective March 2020 and requires companies with data relating to New Yorkers to adopt comprehensive cybersecurity programs. Aspects of the CCPA, CPRA and other laws remain unclear and we may be required to modify our practices further in an effort to comply with them. These statutes may increase our compliance costs and potential liability. Furthermore, on August 11, 2023, India's Digital Personal Data Protection Bill (DPDP) received presidential assent after passing both houses of India's legislature but there has been no official slated implementation date. DPDP applies to personal data processed within India and personal data outside the territory of India if such processing is in connection with any activity related to offering of goods or services to data subjects. We will continue to monitor developments related to new privacy laws which will require us to incur additional costs and expenses in an effort to monitor and comply with such laws.

In addition to government activity, privacy advocacy and other industry groups have established or may establish new self-regulatory standards that may place additional burdens on us. Our customers expect us to meet voluntary certification or other standards established by third parties, such as TRUSTe. If we are unable to maintain these certifications or meet these standards, it could adversely affect our ability to provide our solutions to certain customers and could harm our business.

The costs of compliance with and other burdens imposed by laws, regulations and standards may limit the use and adoption of our service and reduce overall demand for it, or lead to significant fines, penalties or liabilities for any noncompliance.

Furthermore, concerns regarding data privacy may cause our customers' customers to resist providing the data necessary to allow our customers to use our service effectively. Even the perception that the privacy of personal information is not satisfactorily protected or does not meet regulatory requirements could inhibit sales of our products or services, and could limit adoption of our subscription

solution. Moreover, as our customers face increased scrutiny for data privacy breaches, they may elect to transfer the risk to us through contractual provisions which may subject us to increasing levels of contractual liability for data privacy breaches.

[Table of Contents](#)

Anti-corruption, anti-bribery, and similar laws, and failure to comply with these laws, could subject us to criminal penalties or significant fines and harm our business and reputation.

We are subject to anti-corruption and anti-bribery and similar laws, such as the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, the USA PATRIOT Act, the UK Bribery Act 2010, and other anti-corruption, anti-bribery, and anti-money laundering laws in countries in which we conduct activities. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly and prohibit companies and their employees and agents from promising, authorizing, making or offering improper payments, or other benefits to government officials and others in the private sector. As we increase our international sales and business, our risks under these laws may increase. Noncompliance with these laws could subject us to investigations, sanctions, settlements, prosecution, other enforcement actions, disgorgement of profits, significant fines, damages, other civil and criminal penalties or injunctions, adverse media coverage, and other consequences. Any investigations, actions, or sanctions could harm our business, operating results, and financial condition.

Industry-specific regulation is evolving and unfavorable industry-specific laws, regulations or interpretive positions could limit our ability to provide services and harm our business.

Our customers and potential customers conduct business in a variety of industries, including financial services, the public sector, healthcare and telecommunications. Regulators in certain industries have adopted and may in the future adopt regulations or interpretive positions regarding the use of cloud computing and other outsourced services. The costs of compliance with, and other burdens imposed by, industry-specific laws, regulations and interpretive positions may limit customers' use and adoption of our services and reduce overall demand for our services. For example, some financial services regulators have imposed guidelines for use of cloud computing services that mandate specific controls or require financial services enterprises to obtain regulatory approval prior to outsourcing certain functions. If we are unable to comply with these guidelines or controls, or if our customers are unable to obtain regulatory approval to use our service where required, our business may be harmed. In addition, an inability to satisfy the standards of certain voluntary third-

[Table of Contents](#)

party third-party certification bodies that our customers may expect, such as an attestation of compliance with the PCI Data Security Standards, may have an adverse impact on our business. If we are unable to achieve or maintain these industry-specific certifications or other requirements or standards relevant to our customers, it could adversely affect our ability to provide our services to certain customers and harm our business.

In some cases, industry-specific laws, regulations or interpretive positions may also apply directly to us as a service provider. Any failure or perceived failure by us to comply with such requirements could have an adverse impact on our business.

Risks Related to Intellectual Property

We have been and may in the future be sued by third parties for various claims including alleged infringement of proprietary rights that can be time-consuming, incur substantial costs and divert the attention of management, which could adversely affect our operations and cash flow.

We are involved in various legal matters arising from the normal course of business activities. These may include claims, suits, and other proceedings involving alleged infringement of third-party patents and other intellectual property rights, and commercial, labor and employment, and other matters.

The software and Internet industries are characterized by the existence of a large number of patents, trademarks and copyrights and by frequent litigation based on allegations of infringement or other violations of intellectual property rights. We have received and may receive in the future communications from third parties claiming that we or our customers have infringed the intellectual property rights of others. In addition, we have been, and may in the future be, sued by third parties for alleged infringement of their claimed proprietary rights. Our technologies and those of our customers may be subject to injunction if they are found to infringe the rights of a third party or we may be required to pay damages, or both. Many of our agreements require us to indemnify our customers for third-party intellectual property infringement claims, which would increase the cost to us of an adverse ruling on such a claim.

[Table of Contents](#)

The outcome of any litigation, regardless of its merits, is inherently uncertain. Any claims and lawsuits, and the disposition of such claims and lawsuits, could be time-consuming and expensive to resolve, divert management attention from executing our business plan, lead to attempts on the part of other parties to pursue similar claims and, in the case of intellectual property claims, require us to change our technology, change our business practices or pay monetary damages, or enter into short- or long-term royalty or licensing agreements.

Any adverse determination related to intellectual property claims or other litigation could prevent us from offering our service to customers, could be material to our financial condition or cash flows, or both, or could otherwise adversely affect our operating results. In addition, depending on the nature and timing of any such dispute, a resolution of a legal matter could materially affect our future results of operation or cash flows or both.

We rely on trademark, copyright, trade secret laws, contractual restrictions and patent rights to protect our intellectual property and proprietary rights and, if these rights are impaired, then our ability to generate revenue will be harmed.

If we fail to protect our intellectual property rights adequately, our competitors might gain access to our technology, and our business might be harmed. In addition, defending our intellectual property rights might entail significant expense. Any of our trademarks or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation. While we have some U.S. patents and pending U.S. patent applications, we may be unable to obtain patent protection for the technology covered in our patent applications. In addition, our existing patents and any patents issued in the future may not provide us with competitive advantages, or may be successfully challenged by third parties. Furthermore, legal standards relating to the validity, enforceability and scope of protection of intellectual property rights are uncertain. Effective patent, trademark, copyright and trade secret protection may not be available to us in every country in which our service is available. The laws of some foreign countries may not be as protective of intellectual property rights as those in the U.S., and mechanisms for enforcement of intellectual property rights may be inadequate. Accordingly,

[Table of Contents](#)

despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our intellectual property.

We might be required to spend significant resources to monitor and protect our intellectual property rights. We may initiate claims or litigation against third parties for infringement of our proprietary rights or to establish the validity of our proprietary rights. Any litigation, whether or not it is resolved in our favor, could result in significant expense to us and divert the efforts of our technical and management personnel.

Our failure or inability to develop non-infringing technology or license proprietary rights on a timely basis would harm our business.

We may be subject to legal proceedings and claims from time to time in the ordinary course of our business, including claims of alleged infringement of the patents and other intellectual property rights of third parties. Our products may infringe on issued patents that may relate to our products because patent applications in the United States are not publicly disclosed until the patent is issued, and hence applications may have been filed which relate to our software products. Intellectual property litigation is expensive, time consuming, and could divert management's attention away from running our business. Litigation could also require us to develop non-infringing technology or enter into royalty or license agreements. These royalty or license agreements, if required, may not be available on acceptable terms, if at all, in the event of a successful claim of infringement.

The AI technology and features incorporated into our solution include new and evolving technologies that may present both legal and business risks.

Concerns relating to the responsible use of generative AI in our products and services may result in reputational and financial harm and liability and may cause us to incur costs to resolve such issues. AI technologies are complex and rapidly evolving, and we face significant competition from other companies as well as an evolving legal and regulatory landscape. The incorporation of AI-powered features into our products and services may subject us to new or enhanced governmental or regulatory scrutiny, litigation, confidentiality or security risks, ethical concerns, or other complications. Intellectual property ownership and license rights, including copyright, surrounding AI technologies has not been fully addressed by federal or state laws or by U.S. courts, and the manner in which we configure and use AI technologies may expose us to

[Table of Contents](#)

claims of copyright infringement or other intellectual property misappropriation. It is possible that new laws and regulations will be adopted in the United States and in other countries, or that existing laws and regulations will be interpreted in ways that would affect the operation of our products and services and the way in which we use AI. Further, the cost to comply with such laws or regulations could be significant and would increase our operating expenses, which could harm our business, reputation, financial condition, and results of operations.

If we enable or offer solutions that draw controversy due to their perceived or actual impact on society, such as AI solutions that have unintended consequences or are controversial because of their impact on human rights, privacy, employment, or other social, economic,

or political issues, or if we are unable to develop effective internal policies and frameworks relating to the responsible development and use of AI models and systems offered through our sales channels, we may experience brand or reputational harm, competitive harm or legal liability. Compliance with government regulation in the area of AI ethics may also increase the cost of related research and development, and changes in AI-related regulation could disproportionately impact and disadvantage us and require us to change our business practices, which may negatively impact our financial results. Our failure to address concerns relating to the responsible use of AI by us or others could undermine public confidence in AI and slow adoption of AI in our products and services or cause reputational harm. Uncertainty around new and emerging AI applications such as generative AI content creation may require additional investment in the development of proprietary datasets, machine learning models and systems to test for accuracy, bias and other variables, which are often complex, may be costly and could impact our profit margin if we decide to expand generative AI into our product offerings.

[Table of Contents](#)

We face risks related to pandemic and public health emergencies which could have a material adverse effect on our business, financial condition and results of operations.

Pandemics, such as the COVID-19 pandemic, and other public health emergencies, and preventative measures taken to contain or mitigate such crises have caused, and may in the future cause, business slowdown or shutdown in affected areas and significant disruption in the financial markets, both globally and in the United States. These events have led to and could again lead to adverse impacts to our business, results of operations, financial conditions, and cash flows. We cannot predict whether, and to what degree, our sales, operations and financial results could in the future be affected by the pandemic and preventative measures.

- Risks presented by pandemics and other public health emergencies include, but are not limited to: the rate of information technology spending and the ability of our customers to purchase our offerings could be adversely impacted. Further, the impact of a pandemic or public health emergency could delay prospective customers' purchasing decisions and cause them to become less inclined to trade-up from existing solutions, impact customers' pricing expectations for our offerings, lengthen payment terms, reduce the value or duration of their subscription contracts, or adversely impact renewal rates;
- increased cyber incidents during a pandemic or public health emergency and our increased reliance on a remote workforce could increase our exposure to potential cybersecurity breaches and attacks; and/or
- our results of operations are subject to fluctuations in foreign currency exchange rates, which risks may be heightened due to increased volatility of foreign currency exchange rates as a result of a pandemic or public health emergency. Further, our forecasted revenue, operating results and cash flows could vary materially from those we provide as guidance or from those anticipated by investors and analysts if the assumptions on which we base our financial projections are inaccurate as a result of the unpredictability of the impact that a pandemic or public health emergency will have on our businesses, our customers' and partners' businesses and the global markets and economy or we make changes to our licensing programs or payment terms in connection with a pandemic or public health emergency.

We cannot reasonably predict the ultimate impact of any pandemic or public health emergency, including the extent of any adverse impact on our business, results of operations and financial condition, which will depend on, among other things, the duration and spread of the pandemic or public health emergency, the impact of governmental regulations that have been, and may continue to be, imposed in response, the effectiveness of actions taken to contain or mitigate the outbreak, the availability, safety and efficacy of vaccines, including against emerging variants of the infectious disease, and global economic conditions. Additionally, disruptions have in the past made it more challenging to compare our performance,

including our revenue growth and overall profitability, across quarters and fiscal years, and could have this effect in the future. To the extent a pandemic or public health emergency adversely affects our business, results of operations, financial conditions, and cash flows, it may also heighten many of the other risks described in this "Risk Factors" section.

General Risk Factors

Changes to current accounting policies could have a significant effect on our reported financial results or the way in which we conduct our business.

Generally accepted accounting principles and the related accounting pronouncements, implementation guidelines and interpretations for some of our significant accounting policies are highly complex and require subjective judgments and assumptions. Some of our more significant accounting policies that could be affected by changes in the accounting rules and the related implementation guidelines and interpretations include:

- recognition of revenue;
- contingencies and litigation; and
- accounting for income taxes.

Changes in these or other rules, or scrutiny of our current accounting practices, or a determination that our judgments or assumptions in the application of these accounting principles were incorrect, could have a significant adverse effect on our reported operating results or the way in which we conduct our business.

Our stock price has demonstrated volatility and continued market conditions may cause declines or fluctuations.

The price at which our common stock trades has been and will likely continue to be highly volatile and show wide fluctuations due to factors such as the following:

- transition to a subscription revenue model;
- concerns related to liquidity of our stock;
- actual or anticipated fluctuations in our operating results, our ability to meet announced or anticipated profitability goals and changes in or failure to meet securities analysts' expectations;
- announcements of technological innovations and/or the introduction of new services by us or our competitors;
- developments with respect to intellectual property rights and litigation, regulatory scrutiny and new legislation;
- conditions and trends in the Internet and other technology industries; and
- general market and economic conditions.

Furthermore, the stock market has experienced significant price and volume fluctuations that have affected the market prices for the common stock of technology companies, regardless of the specific operating performance of the affected company. These broad market fluctuations may cause the market price of our common stock to decline.

Our insiders who are significant stockholders have the ability to exercise significant control over matters requiring stockholder approval, including the election of our board of directors, and may have interests that conflict with those of other stockholders.

Our directors and executive officers, together with their affiliates and members of their immediate families, beneficially owned, in the aggregate, approximately 32% of our outstanding capital stock as of **September 30, 2023** **December 31, 2023**, of which our Chief Executive Officer, Ashutosh Roy, beneficially owned approximately 28% as of such date. As a result of these concentrated holdings, Mr. Roy individually or together with this group has the ability to exercise significant control over most matters

56

[Table of Contents](#)

requiring our stockholders' approval, including the election and removal of directors and the approval of significant corporate transactions, such as a merger or sale of our company or its assets.

53

[Table of Contents](#)

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

On November 14, 2022, our board of directors authorized a stock repurchase program under which we may purchase up to \$20.0 million of our outstanding common stock. As of **September 30, 2023** **December 31, 2023**, approximately **\$13.7 million** **\$11.2 million** remained available for stock repurchases pursuant to our stock repurchase program.

Under the stock repurchase program, we may purchase shares of common stock on a discretionary basis from time to time through open market transactions or privately negotiated transactions at prices deemed appropriate by us. In addition, at our discretion, open market repurchase of common stock may also be made under a Rule 10b5-1 plan, which would permit common stock to be repurchased when we might otherwise be precluded from doing so under insider trading laws or self-imposed trading restrictions.

The timing and number of shares repurchased will be determined based on an evaluation of market conditions and other factors, including stock price, trading volume, general business and market conditions, and the availability of capital. The **original** stock repurchase program is effective immediately as of November 14, 2022, **has a and was amended to extend the term of one by an additional year from adoption until November 14, 2024**, unless further extended, does not obligate us to acquire a specified number of shares and may be modified, suspended, or discontinued at any time at our discretion without notice. The stock repurchase program will be funded using existing cash or future cash flows. Common shares repurchased by the Company are held as treasury shares.

The following table summarizes the stock repurchase activity for the three months ended of **September 30, 2023** **December 31, 2023**, and the approximate dollar value of shares that may yet be purchased pursuant to our stock repurchase program:

Period	Total Number of Shares				Approximate Dollar Value Total of Shares			
	Purchased as Part of Total Number of Shares		Approximate Dollar Value of Shares That May Be Purchased		Number of Shares That May Yet Be Purchased		Total of Shares Under the Program	
	Price Paid per Share		Publicly Announced Under the Program		Price Paid per Share (in thousands)		Number of Shares Announced (in thousands)	
	Purchased	per Share	Program	(in thousands)	Purchased	Share Program	Program	thousands)
July 1, 2023 to July 31, 2023	-	\$ -	-	\$ -	14,237			
August 1, 2023 to August 31, 2023	-	\$ -	-	\$ -	14,237			
September 1, 2023 to September 30, 2023	83,056	\$ 6.23	83,056	\$ 13,720				
October 1, 2023 to October 31, 2023					274,696	\$ 6.30	274,696	\$ 11,988
November 1, 2023 to November 30, 2023					115,805	\$ 6.60	115,805	\$ 11,224
December 1, 2023 to December 31, 2023					341	\$ 7.51	341	\$ 11,222
Total	<u>83,056</u>		<u>83,056</u>		<u>390,842</u>		<u>390,842</u>	

Item 5. Other Information

(c) Trading Plans

During the three months ended **September 30, 2023** **December 31, 2023**, no director or Section 16 officer adopted or terminated any Rule 10b5-1 trading arrangements or non-Rule 10b5-trading arrangements (in each case, as defined in Item 408(a) of Regulation S-K).

54 57

[Table of Contents](#)

Item 6. Exhibits

Exhibits No.	Description of Exhibits
10.1#	eGain Corporation Amended and Restated 2005 Stock Incentive Plan (as amended and restated on October 12, 2023).
31.1	Rule 13a-15(e)/15d-15(e) Certification of Chief Executive Officer.
31.2	Rule 13a-15(e)/15d-15(e) Certification of Chief Financial Officer.

32.1*	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002 of Ashutosh Roy, Chief Executive Officer.
32.2*	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002 of Eric Smit, Chief Financial Officer.
101	Interactive Data Files Pursuant to Rule 405 of Regulation S-T: (i) Condensed Consolidated Balance Sheets as of September 30, 2023 December 31, 2023 and June 30, 2023, (ii) Condensed Consolidated Statements of Operations for the three and six months ended September 30, 2023 December 31, 2023 and 2022, (iii) Condensed Consolidated Statements of Comprehensive Income (Loss) for the three and six months ended September 30, 2023 December 31, 2023 and 2022, (iv) Condensed Consolidated Statements of Stockholders' Equity for the three and six months ended September 30, 2023 December 31, 2023 and 2022, (v) Condensed Consolidated Statements of Cash Flows for the three six months ended September 30, 2023 December 31, 2023 and 2022 and (vi) Notes to Condensed Consolidated Financial Statements.
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

Indicates management contract or compensatory plan or arrangement.

* In accordance with Item 601(b)(32)(ii) of Regulation S-K and SEC Release No. 34-47986, the certifications furnished in Exhibits 32.1 and 32.2 hereto are deemed to accompany this Form 10-Q and will not be deemed "filed" for purposes of Section 18 of the Exchange Act or deemed to be incorporated by reference into any filing under the Exchange Act or the Securities Act except to the extent that the registrant specifically incorporates it by reference.

[Table of Contents](#)

SIGNATURE

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

Dated: **November 7, 2023** **February 8, 2024**

eGain Corporation

By

/s/ Eric N. Smit

Eric N. Smit

Chief Financial Officer

(Principal Financial and Accounting Officer)

5659

Exhibit 31.1

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

I, Ashutosh Roy, certify that:

- 1) I have reviewed this quarterly report on Form 10-Q of eGain Corporation;
- 2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- 3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- 4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

- d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- 5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2023 February 8, 2024

By: /s/ Ashutosh Roy

Ashutosh Roy

Chief Executive Officer

Exhibit 31.2

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

I, Eric Smit, certify that:

- 1) I have reviewed this quarterly report on Form 10-Q of eGain Corporation;
- 2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- 3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- 4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- 5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

Date: November 7, 2023 February 8, 2024

By: /s/ Eric N. Smit

Eric N. Smit

Chief Financial Officer

Exhibit 32.1

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

I, Ashutosh Roy, the Chief Executive Officer of eGain Corporation (the "Company"), certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge,

- (i) the Quarterly Report on Form 10-Q of the Company for the period ended September 30, 2023 December 31, 2023 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Ashutosh Roy
Ashutosh Roy

Chief Executive Officer

November 7, 2023 February 8, 2024

Exhibit 32.2

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

I, Eric Smit, the Chief Financial Officer of eGain Corporation (the "Company"), certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge,

- (i) the Quarterly Report on Form 10-Q of the Company for the period ended September 30, 2023 December 31, 2023 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Eric N. Smit
Eric N. Smit

Exhibit 10.1

eGAIN CORPORATION

AMENDED AND RESTATED 2005 STOCK INCENTIVE PLAN

(As amended and restated on October 12, 2023)

1

Table of Contents

	Page
<u>SECTION 1. ESTABLISHMENT AND PURPOSE.</u>	5
<u>SECTION 2. DEFINITIONS.</u>	5
(a) <u>"Affiliate"</u>	5
(b) <u>"Award"</u>	5
(c) <u>"Award Agreement"</u>	5
(d) <u>"Board of Directors" or "Board"</u>	5
(e) <u>"Change in Control"</u>	5

(f)	"Code"	6
(g)	"Committee"	6
(h)	"Company"	6
(i)	"Consultant"	6
(j)	"Employee"	7
(k)	"Exchange Act"	7
(l)	"Exercise Price"	7
(m)	"Fair Market Value"	7
(n)	"ISO"	7
(o)	"Nonstatutory Option" or "NSO"	7
(p)	"Option"	7
(q)	"Outside Director"	7
(r)	"Parent"	7
(s)	"Participant"	8
(t)	"Performance Based Award"	8
(u)	"Plan"	8
(v)	"Purchase Price"	8
(w)	"Restricted Share"	8
(x)	"SAR"	8
(y)	"Service"	8
(z)	"Share"	8
(aa)	"Stock"	8
(bb)	"Stock Unit"	8
(cc)	"Subsidiary"	8
(dd)	"Total and Permanent Disability"	8
<u>SECTION 3. ADMINISTRATION.</u>		9
(a)	Committee Composition	9

(b)	Committee for Non-Officer Grants	9
(c)	Committee Procedures	9
(d)	Committee Responsibilities	9
<u>SECTION 4. ELIGIBILITY.</u>		10
(a)	General Rule	10
(b)	Automatic Grants to Outside Directors	10
(c)	Ten-Percent Stockholders	11
(d)	Attribution Rules	11
(e)	Outstanding Stock	11
<u>SECTION 5. STOCK SUBJECT TO PLAN.</u>		11
(a)	Basic Limitation	11
(b)	Section 162(m) Award Limitation	12

(c) Additional Shares	12
(d) Substitution and Assumption of Awards	12
SECTION 6. RESTRICTED SHARES.	12
(a) Restricted Share Award Agreement	12
(b) Payment for Awards	13
(c) Vesting	13
(d) Voting and Dividend Rights	13
(e) Restrictions on Transfer of Shares	13
SECTION 7. TERMS AND CONDITIONS OF OPTIONS.	13
(a) Stock Option Award Agreement	13
(b) Number of Shares	13
(c) Exercise Price	13
(d) Withholding Taxes	14
(e) Exercisability and Term	14
(f) Exercise of Options	14
(g) Effect of Change in Control	14
(h) No Rights as a Stockholder	14
(i) Modification, Extension, and Renewal of Options	14
(j) Restrictions on Transfer of Shares	15
SECTION 8. PAYMENT FOR SHARES.	15
(a) General Rule	15
(b) Surrender of Stock	15
(c) Services Rendered	15
(d) Cashless Exercise	15
(e) Exercise/Pledge	15
(f) Net Exercise	15

(g) Promissory Note	16
(h) Other Forms of Payment	16
(i) Limitations under Applicable Law	16
SECTION 9. STOCK APPRECIATION RIGHTS.	16
(a) SAR Award Agreement	16
(b) Number of Shares	16
(c) Exercise Price	16
(d) Exercisability and Term	16
(e) Effect of Change in Control	16
(f) Exercise of SARS	17
(g) Modification or Assumption of SARS	17
SECTION 10. STOCK UNITS.	17
(a) Stock Unit Award Agreement	17

(b) Payment for Awards	17
(c) Vesting Conditions	17
(d) Voting and Dividend Rights	17
(e) Form and Time of Settlement of Stock Units	18
(f) Death of Participant	18
(g) Creditors' Rights	18
SECTION 11. ADJUSTMENT OF SHARES.	18
(a) Adjustments	18
(b) Dissolution or Liquidation	18
(c) Reorganizations	19
(d) Reservation of Rights	19
SECTION 12. DEFERRAL OF AWARDS.	20
(a) Committee Powers	20
(b) General Rules	20
SECTION 13. AWARDS UNDER OTHER PLANS.	20
SECTION 14. PAYMENT OF DIRECTOR'S FEES IN SECURITIES.	20
(a) Effective Date	20
(b) Elections to Receive NSOs, SARs, Restricted Shares or Stock Units	20
(c) Number and Terms of NSOs, SARs, Restricted Shares or Stock Units	21
SECTION 15. LEGAL AND REGULATORY REQUIREMENTS.	21
SECTION 16. TAXES.	21
(a) Withholding Taxes	21
(b) Share Withholding	21
(c) Section 409A	21
SECTION 17. TRANSFERABILITY.	22

iii

SECTION 18. PERFORMANCE BASED AWARDS.	22
SECTION 19. NO EMPLOYMENT RIGHTS.	23
SECTION 20. DURATION AND AMENDMENTS.	23
(a) Term of the Plan	23
(b) Right to Amend the Plan	23
(c) Effect of Termination	23
SECTION 21. EXECUTION.	24

iv

EGAIN CORPORATION

AMENDED AND RESTATED 2005 STOCK INCENTIVE PLAN

SECTION 1. ESTABLISHMENT AND PURPOSE.

The Plan was adopted by the Board of Directors effective March 11, 2005 (the "Effective Date") and was most recently amended and restated on October 12, 2023. The purpose of the Plan is to promote the long-term success of the Company and the creation of stockholder value by (a) encouraging Employees, Outside Directors and Consultants to focus on critical long-range objectives, (b) encouraging the attraction and retention of Employees, Outside Directors and Consultants with exceptional qualifications and (c) linking Employees, Outside Directors and Consultants directly to stockholder interests through increased stock ownership. The Plan seeks to achieve this purpose by providing for Awards in the form of restricted shares, stock units, options (which may constitute incentive stock options or nonstatutory stock options), or stock appreciation rights.

SECTION 2. DEFINITIONS.

- (a) "Affiliate" shall mean any entity other than a Subsidiary, if the Company and/or one or more Subsidiaries own not less than 50% of such entity.
- (b) "Award" shall mean any award of an Option, a SAR, a Restricted Share or a Stock Unit under the Plan.
- (c) "Award Agreement" shall mean the agreement between the Company and the recipient of an Award which contains the terms, conditions and restrictions pertaining to such Award.
- (d) "Board of Directors" or "Board" shall mean the Board of Directors of the Company, as constituted from time to time.
- (e) "Change in Control" shall mean the occurrence of any of the following events:
 - (i) A change in the composition of the Board of Directors occurs, as a result of which fewer than one-half of the incumbent directors are directors who either:
 - (A) Had been directors of the Company on the "look-back date" (as defined below) (the "original directors"); or
 - (B) Were elected, or nominated for election, to the Board of Directors with the affirmative votes of at least a majority of the aggregate of the original directors who were still in office at the time of the election or nomination and the directors whose election or nomination was previously so approved (the "continuing directors");
 - (ii) Any "person" (as defined below) who by the acquisition or aggregation of securities, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the combined voting power of the Company's

5

then outstanding securities ordinarily (and apart from rights accruing under special circumstances) having the right to vote at elections of directors (the "Base Capital Stock"); except that any change in the relative beneficial ownership of the Company's securities by any person resulting solely from a reduction in the aggregate number of outstanding shares of Base Capital Stock, and any decrease thereafter in such person's ownership of securities, shall be disregarded until such person increases in any manner, directly or indirectly, such person's beneficial ownership of any securities of the Company; or

- (iii) The consummation of a merger or consolidation of the Company or a Subsidiary of the Company with or into another entity or any other corporate reorganization, if persons who were not stockholders of the Company immediately prior to such merger, consolidation or other reorganization own immediately after such merger, consolidation or other

reorganization 50% or more of the voting power of the outstanding securities of each of (A) the Company (or its successor) and (B) any direct or indirect parent corporation of the Company (or its successor); or

(iv) The sale, transfer or other disposition of all or substantially all of the Company's assets.

For purposes of subsection (d)(i) above, the term "look-back" date shall mean the later of (1) the Effective Date or (2) the date that is 24 months prior to the date of the event that may constitute a Change in Control.

For purposes of subsection (d)(ii) above, the term "person" shall have the same meaning as when used in Sections 12(d) and 13(d) of the Exchange Act but shall exclude (1) a trustee or other fiduciary holding securities under an employee benefit plan maintained by the Company or a Parent or Subsidiary and (2) a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the Stock.

Any other provision of this Section 2(d) notwithstanding, a transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction, and a Change in Control shall not be deemed to occur if the Company files a registration statement with the United States Securities and Exchange Commission for the public offering of securities or debt of the Company to the public.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(g) "Committee" shall mean the Compensation Committee as designated by the Board of Directors, which is authorized to administer the Plan, as described in Section 3 hereof.

(h) "Company" shall mean eGain Corporation, a Delaware corporation.

(i) "Consultant" shall mean a consultant or advisor who provides bona fide services to the Company, a Parent, a Subsidiary or an Affiliate as an independent contractor (not including service as a member of the Board of Directors) or a member of the board of directors of a Parent or a Subsidiary, in each case who is not an Employee.

6

(j) "Employee" shall mean any individual who is a common-law employee of the Company, a Parent, a Subsidiary or an Affiliate.

(k) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(l) "Exercise Price" shall mean, in the case of an Option, the amount for which one Share may be purchased upon exercise of such Option, as specified in the applicable Stock Option Agreement. "Exercise Price," in the case of a SAR, shall mean an amount, as specified in the applicable SAR Agreement, which is subtracted from the Fair Market Value of one Share in determining the amount payable upon exercise of such SAR.

(m) "Fair Market Value" with respect to a Share, shall mean the market price of one Share, determined by the Committee as follows:

(i) If the Stock was traded over-the-counter on the date in question, then the Fair Market Value shall be equal to the last transaction price quoted for such date by the OTC Bulletin Board or, if not so quoted, shall be equal to the mean between the last reported representative bid and asked prices quoted for such date by the principal automated inter-dealer quotation system on which the Stock is quoted or, if the Stock is not quoted on any such system, by the OTC Link Quote system;

(ii) If the Stock was traded on any established stock exchange (such as the New York Stock Exchange or The NASDAQ Stock Market) or national market system on the date in question, then the Fair Market Value shall be equal to the closing price reported for such date by the applicable exchange or system; and

(iii) If none of the foregoing provisions is applicable, then the Fair Market Value shall be determined by the Committee in good faith on such basis as it deems appropriate.

In all cases, the determination of Fair Market Value by the Committee shall be conclusive and binding on all persons.

(n) "ISO" shall mean an employee incentive stock option described in Section 422 of the Code.

(o) "Nonstatutory Option" or "NSO" shall mean an employee stock option that is not an ISO.

(p) "Option" shall mean an ISO or Nonstatutory Option granted under the Plan and entitling the holder to purchase Shares.

(q) "Outside Director" shall mean a member of the Board of Directors who is not a common-law employee of, or paid consultant to, the Company, a Parent or a Subsidiary.

(r) "Parent" shall mean any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be a Parent commencing as of such date.

7

(s) "Participant" shall mean a person who holds an Award.

(t) "Performance Based Award" shall mean any Restricted Share Award or Stock Unit Award granted to a Participant that is intended to qualify as "performance-based compensation" under Section 162(m) of the Code.

(u) "Plan" shall mean this 2005 Stock Incentive Plan of eGain Corporation, as amended from time to time.

(v) "Purchase Price" shall mean the consideration for which one Share may be acquired under the Plan (other than upon exercise of an Option), as specified by the Committee.

(w) "Restricted Share" shall mean a Share awarded under the Plan.

(x) "SAR" shall mean a stock appreciation right granted under the Plan.

(y) "Service" shall mean service as an Employee, Consultant or Outside Director, subject to such further limitations as may be set forth in the Plan or the applicable Award Agreement. Service does not terminate when an Employee goes on a bona fide leave of absence, that was approved by the Company in writing, if the terms of the leave provide for continued Service crediting, or when continued Service crediting is required by applicable law. However, for purposes of determining whether an Option is entitled to ISO status, an Employee's employment will be treated as terminating three months after such Employee went on leave, unless such Employee's right to return to active work is guaranteed by law or by a contract. Service terminates in any event when the approved leave ends, unless such Employee immediately returns to active work. The Company determines which leaves of absence count toward Service, and when Service terminates for all purposes under the Plan.

(z) "Share" shall mean one share of Stock, as adjusted in accordance with Section 11 (if applicable).

(aa) "Stock" shall mean the Common Stock of the Company.

(bb) "Stock Unit" shall mean a bookkeeping entry representing the Company's obligation to deliver one Share (or distribute cash) on a future date in accordance with the provisions of a Stock Unit Award Agreement.

(cc) "Subsidiary" shall mean any corporation, if the Company and/or one or more other Subsidiaries own not less than 50% of the total combined voting power of all classes of outstanding stock of such corporation. A corporation that attains the

status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

(dd) *Total and Permanent Disability* shall mean any permanent and total disability as defined by Section 22(e)(3) of the Code.

SECTION 3. ADMINISTRATION.

(a) *Committee Composition.* The Plan shall be administered by a Committee appointed by the Board, or by the Board acting as the Committee. The Committee shall consist of two or more directors of the Company. In addition, to the extent required by the Board, the composition of the Committee shall satisfy (i) such requirements as the Securities and Exchange Commission may establish for administrators acting under plans intended to qualify for exemption under Rule 16b-3 (or its successor) under the Exchange Act; and (ii) such requirements as the Internal Revenue Service may establish for outside directors acting under plans intended to qualify for exemption under Section 162(m)(4)(C) of the Code.

(b) *Committee for Non-Officer Grants.* The Board may also appoint one or more separate committees of the Board, each composed of one or more directors of the Company who need not satisfy the requirements of Section 3(a), who may administer the Plan with respect to Employees who are not considered officers or directors of the Company under Section 16 of the Exchange Act, may grant Awards under the Plan to such Employees and may determine all terms of such Awards. Within the limitations of the preceding sentence, any reference in the Plan to the Committee shall include such committee or committees appointed pursuant to the preceding sentence. To the extent permitted by applicable laws, the Board of Directors may also authorize one or more officers of the Company to designate Employees, other than officers under Section 16 of the Exchange Act, to receive Awards and/or to determine the number of such Awards to be received by such persons; provided, however, that the Board of Directors shall specify the total number of Awards that such officers may so grant.

(c) *Committee Procedures.* The Board of Directors shall designate one of the members of the Committee as chairman. The Committee may hold meetings at such times and places as it shall determine. The acts of a majority of the Committee members present at meetings at which a quorum exists, or acts reduced to or approved in writing (including via email) by all Committee members, shall be valid acts of the Committee.

(d) *Committee Responsibilities.* Subject to the provisions of the Plan, the Committee shall have full authority and discretion to take the following actions:

- (i) To interpret the Plan and to apply its provisions;
- (ii) To adopt, amend or rescind rules, procedures and forms relating to the Plan;
- (iii) To adopt, amend or terminate sub-plans established for the purpose of satisfying applicable foreign laws including qualifying for preferred tax treatment under applicable foreign tax laws;
- (iv) To authorize any person to execute, on behalf of the Company, any instrument required to carry out the purposes of the Plan;
- (v) To determine when Awards are to be granted under the Plan;
- (vi) To select the Participants to whom Awards are to be granted;
- (vii) To determine the type of Award and number of Shares or amount of cash to be made subject to each Award;

- (viii) To prescribe the terms and conditions of each Award, including (without limitation) the Exercise Price and Purchase Price, and the vesting or duration of the Award (including accelerating the vesting of Awards, either at the time of the Award or thereafter, without the consent of the Participant), to determine whether an Option is to be classified as an ISO or as a Nonstatutory Option, and to specify the provisions of the agreement relating to such Award;
- (ix) To amend any outstanding Award Agreement, subject to applicable legal restrictions and to the consent of the Participant if the Participant's rights or obligations would be materially impaired;
- (x) To prescribe the consideration for the grant of each Award or other right under the Plan and to determine the sufficiency of such consideration;
- (xi) To determine the disposition of each Award or other right under the Plan in the event of a Participant's divorce or dissolution of marriage;
- (xii) To determine whether Awards under the Plan will be granted in replacement of other grants under an incentive or other compensation plan of an acquired business;
- (xiii) To correct any defect, supply any omission, or reconcile any inconsistency in the Plan or any Award Agreement;
- (xiv) To establish or verify the extent of satisfaction of any performance goals or other conditions applicable to the grant, issuance, exercisability, vesting and/or ability to retain any Award; and
- (xv) To take any other actions deemed necessary or advisable for the administration of the Plan.

Subject to the requirements of applicable law, the Committee may designate persons other than members of the Committee to carry out its responsibilities and may prescribe such conditions and limitations as it may deem appropriate, except that the Committee may not delegate its authority with regard to the selection for participation of or the granting of Awards under the Plan to persons subject to Section 16 of the Exchange Act. All decisions, interpretations and other actions of the Committee shall be final and binding on all Participants and all persons deriving their rights from a Participant. No member of the Committee shall be liable for any action that he has taken or has failed to take in good faith with respect to the Plan or any Award under the Plan.

SECTION 4. ELIGIBILITY.

- (a) *General Rule.* Only Employees, Consultants and Outside Directors shall be eligible for the grant of Awards. Only common-law employees of the Company, a Parent or a Subsidiary shall be eligible for the grant of ISOs.
- (b) *Automatic Grants to Outside Directors.*
 - (i) On the first business day following the conclusion of each regular annual meeting of the Company's stockholders, commencing with the annual meeting occurring after the Effective Date, each Outside Director who was not elected to the Board for the first time at such meeting and who will continue

10

serving as a member of the Board of Directors thereafter shall receive an Option to purchase 500 Shares (subject to adjustment under Section 11), provided that such Outside Director has served on the Board of Directors for at least six months. Each Option granted under this Section 4(b)(ii) shall vest and become exercisable on the first anniversary of the date of grant; provided, however, that each such Option shall become vested and exercisable in full immediately prior to the next regular annual meeting of the Company's stockholders following such date of grant in the event such meeting occurs prior to such first anniversary date. Notwithstanding the foregoing, each Option granted under this Section 4(b)(ii) shall become vested and exercisable in full if a Change in Control occurs with respect to the Company during the Participant's Service.

(ii) The Exercise Price of all Nonstatutory Options granted to an Outside Director under this Section 4(b) shall be equal to 100% of the Fair Market Value of a Share on the date of grant, payable in one of the forms described in Section 8(a), (b), (d), (e), (f) or (h).

(iii) All Nonstatutory Options granted to an Outside Director under this Section 4(b) shall terminate on the earlier of (A) the day before the tenth anniversary of the date of grant of such Options or (B) the date that is twelve months after the termination of such Outside Director's Service for any reason; provided, however, that any such Options that are not vested upon the termination of the Outside Director's Service as a member of the Board of Directors for any reason shall terminate immediately and may not be exercised.

(iv) The Board of Directors or the Committee in its discretion may change and otherwise revise the terms of the Nonstatutory Options granted to Outside Directors under this Section 4(b), including, without limitation, the number of Shares subject thereto, the type of Award to be granted under this Section 4(b), for Options or other Awards granted on or after the date the Board of Directors or Committee determines to make any such change or revision.

(c) *Ten-Percent Stockholders.* An Employee who owns more than 10% of the total combined voting power of all classes of outstanding stock of the Company, a Parent or Subsidiary shall not be eligible for the grant of an ISO unless such grant satisfies the requirements of Section 422(c)(5) of the Code.

(d) *Attribution Rules.* For purposes of Section 4(c) above, in determining stock ownership, an Employee shall be deemed to own the stock owned, directly or indirectly, by or for such Employee's brothers, sisters, spouse, ancestors and lineal descendants. Stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be deemed to be owned proportionately by or for its stockholders, partners or beneficiaries.

(e) *Outstanding Stock.* For purposes of Section 4(c) above, "outstanding stock" shall include all stock actually issued and outstanding immediately after the grant. "Outstanding stock" shall not include shares authorized for issuance under outstanding options held by the Employee or by any other person.

SECTION 5. STOCK SUBJECT TO PLAN.

(a) *Basic Limitation.* Shares offered under the Plan shall be authorized but unissued Shares or treasury Shares. The aggregate number of Shares authorized for issuance as Awards under the Plan shall not exceed

11

8,460,000 Shares. Notwithstanding the foregoing, the number of Shares that may be delivered in the aggregate pursuant to the exercise of ISOs granted under the Plan shall not exceed 8,460,000 Shares plus, to the extent allowable under Section 422 of the Code and the Treasury Regulations promulgated thereunder, any Shares that become available for issuance under the Plan pursuant to Section 5(c). The limitations of this Section 5(a) shall be subject to adjustment pursuant to Section 11. The number of Shares that are subject to Awards outstanding at any time under the Plan shall not exceed the number of Shares which then remain available for issuance under the Plan. The Company shall at all times reserve and keep available sufficient Shares to satisfy the requirements of the Plan.

(b) *Section 162(m) Award Limitation.* Notwithstanding any contrary provisions of the Plan and subject to the provisions of Section 11, with respect to any Option or SAR intended to qualify as "performance-based compensation" under Section 162(m) of the Code, no Participant eligible for an Award may receive Options or SARs under the Plan in any calendar year that relate to an aggregate of more than 500,000 Shares, and no more than two times this amount in the first year of employment. To the extent required by Section 162(m) of the Code or the regulations thereunder, in applying the foregoing limitation with respect to a Participant, if any Option or SAR is canceled, the canceled Option or SAR shall continue to count against the maximum number of Shares with respect to which Options and SARs may be granted to the Participant. For this purpose, the repricing of an Option or SAR shall be treated as the cancellation of the existing Option or SAR and the grant of a new Option or SAR.

(c) *Additional Shares.* If Restricted Shares or Shares issued upon the exercise of Options are forfeited, then such Shares shall again become available for Awards under the Plan. If Stock Units, Options or SARs are forfeited or terminate for any reason before being exercised or settled, or an Award is settled in cash without the delivery of Shares to the holder, then any Shares subject to the Award shall again become available for Awards under the Plan. Only the number of Shares (if any) actually issued in settlement of Awards (and not forfeited) shall reduce the number available in Section 5(a) and the balance shall again become available for Awards under the Plan. Any Shares withheld to satisfy the grant or exercise price or tax withholding obligation pursuant to any Award shall again become available for Awards under the Plan. Notwithstanding the foregoing provisions of this Section 5(c), Shares that have actually been issued shall not again become available for Awards under the Plan, except for Shares that are forfeited and do not become vested.

(d) *Substitution and Assumption of Awards.* The Committee may make Awards under the Plan by assumption, substitution or replacement of stock options, stock appreciation rights, stock units or similar awards granted by another entity (including a Parent or Subsidiary), if such assumption, substitution or replacement is in connection with an asset acquisition, stock acquisition, merger, consolidation or similar transaction involving the Company (and/or its Parent or Subsidiary) and such other entity (and/or its affiliate). The terms of such assumed, substituted or replaced Awards shall be as the Committee, in its discretion, determines is appropriate. Any such substitute or assumed Awards shall not count against the Share limitation set forth in Section 5(a).

SECTION 6. RESTRICTED SHARES.

(a) *Restricted Share Award Agreement.* Each grant of Restricted Shares under the Plan shall be evidenced by a Restricted Share Award Agreement between the Participant and the Company. Such Restricted Shares

12

shall be subject to all applicable terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various Restricted Share Award Agreements entered into under the Plan need not be identical.

(b) *Payment for Awards.* Restricted Shares may be sold or awarded under the Plan for such consideration as the Committee may determine, including (without limitation) cash, cash equivalents, full-recourse promissory notes, past services and future services.

(c) *Vesting.* Each Award of Restricted Shares may or may not be subject to vesting. Vesting shall occur, in full or in installments, upon satisfaction of the conditions specified in the Restricted Share Award Agreement. A Restricted Share Award Agreement may provide for accelerated vesting in the event of the Participant's death, disability or retirement or other events. The Committee may determine, at the time of granting Restricted Shares or thereafter, that all or part of such Restricted Shares shall become vested in the event that a Change in Control occurs with respect to the Company.

(d) *Voting and Dividend Rights.* The holders of Restricted Shares awarded under the Plan shall have the same voting, dividend and other rights as the Company's other stockholders. A Restricted Share Award Agreement, however, may require that the holders of Restricted Shares invest any cash dividends received in additional Restricted Shares. Such additional Restricted Shares shall be subject to the same conditions and restrictions as the Award with respect to which the dividends were paid.

(e) *Restrictions on Transfer of Shares.* Restricted Shares shall be subject to such rights of repurchase, rights of first refusal or other restrictions as the Committee may determine. Such restrictions shall be set forth in the applicable Restricted Share Award Agreement and shall apply in addition to any general restrictions that may apply to all holders of Shares.

SECTION 7. TERMS AND CONDITIONS OF OPTIONS.

(a) *Stock Option Award Agreement.* Each grant of an Option under the Plan shall be evidenced by a Stock Option Award Agreement between the Participant and the Company. Such Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions which are not inconsistent with the Plan and which the Committee deems appropriate for inclusion in a Stock Option Award Agreement. The Stock Option Award Agreement shall

specify whether the Option is an ISO or an NSO. The provisions of the various Stock Option Award Agreements entered into under the Plan need not be identical.

(b) *Number of Shares.* Each Stock Option Award Agreement shall specify the number of Shares that are subject to the Option and shall provide for the adjustment of such number in accordance with Section 11.

(c) *Exercise Price.* Each Stock Option Award Agreement shall specify the Exercise Price. The Exercise Price of an ISO shall not be less than 100% of the Fair Market Value of a Share on the date of grant, except as otherwise provided in 4(c), and the Exercise Price of an NSO shall not be less than 100% of the Fair Market Value of a Share on the date of grant. Notwithstanding the foregoing, Options may be granted with an Exercise Price of less than 100% of the Fair Market Value per Share on the date of grant pursuant to a transaction described in, and in a manner consistent with, Section 424(a) of the Code. Subject to the foregoing in this Section 7(c),

13

the Exercise Price under any Option shall be determined by the Committee in its sole discretion. The Exercise Price shall be payable in one of the forms described in Section 8.

(d) *Withholding Taxes.* As a condition to the exercise of an Option, the Participant shall make such arrangements as the Committee may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such exercise. The Participant shall also make such arrangements as the Committee may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with the disposition of Shares acquired by exercising an Option.

(e) *Exercisability and Term.* Each Stock Option Award Agreement shall specify the date when all or any installment of the Option is to become exercisable. The Stock Option Award Agreement shall also specify the term of the Option; provided that the term of an ISO shall in no event exceed 10 years from the date of grant (five years for ISOs granted to Employees described in Section 4(c)). A Stock Option Award Agreement may provide for accelerated exercisability in the event of the Participant's death, disability, or retirement or other events and may provide for expiration prior to the end of its term in the event of the termination of the Participant's Service. Options may be awarded in combination with SARs, and such an Award may provide that the Options will not be exercisable unless the related SARs are forfeited. Subject to the foregoing in this Section 7(e), the Committee at its sole discretion shall determine when all or any installment of an Option is to become exercisable and when an Option is to expire.

(f) *Exercise of Options.* Each Stock Option Award Agreement shall set forth the extent to which the Participant shall have the right to exercise the Option following termination of the Participant's Service with the Company and its Subsidiaries, and the right to exercise the Option of any executors or administrators of the Participant's estate or any person who has acquired such Option(s) directly from the Participant by bequest or inheritance. Such provisions shall be determined in the sole discretion of the Committee, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination of Service.

(g) *Effect of Change in Control.* The Committee may determine, at the time of granting an Option or thereafter, that such Option shall become exercisable as to all or part of the Shares subject to such Option in the event that a Change in Control occurs with respect to the Company.

(h) *No Rights as a Stockholder.* A Participant shall have no rights as a stockholder with respect to any Shares covered by his Option until the date of the issuance of a stock certificate for such Shares. No adjustments shall be made, except as provided in Section 11.

(i) *Modification, Extension and Renewal of Options.* Within the limitations of the Plan, the Committee may modify, extend or renew outstanding Options or may accept the cancellation of outstanding Options (to the extent not previously exercised), whether or not granted hereunder, in return for the grant of new Options for the same or a different number of Shares and at the same or a different Exercise Price, or in return for the grant of a different Award for the same or a different number of

Shares or for cash; provided however that other than in connection with an adjustment of Awards pursuant to Section 11, the Committee may not modify outstanding Options to lower the Exercise Price nor may the Committee assume or accept the cancellation of outstanding Options in return for cash or the grant of new Awards when the Exercise Price is

14

greater than the Fair Market Value of the Shares covered by such Options, unless such action has been approved by the Company's stockholders. The foregoing notwithstanding, no modification of an Option shall, without the consent of the Participant, materially impair his or her rights or obligations under such Option.

(j) *Restrictions on Transfer of Shares.* Any Shares issued upon exercise of an Option shall be subject to such special forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Committee may determine. Such restrictions shall be set forth in the applicable Stock Option Award Agreement and shall apply in addition to any general restrictions that may apply to all holders of Shares.

SECTION 8. PAYMENT FOR SHARES.

(a) *General Rule.* The entire Exercise Price or Purchase Price of Shares issued under the Plan shall be payable in lawful money of the United States of America at the time when such Shares are purchased, except as provided in Section 8(b) through Section 8(h) below.

(b) *Surrender of Stock.* To the extent that a Stock Option Award Agreement so provides, payment may be made all or in part by surrendering, or attesting to the ownership of, Shares which have already been owned by the Participant or his representative. Such Shares shall be valued at their Fair Market Value on the date when the new Shares are purchased under the Plan. The Participant shall not surrender, or attest to the ownership of, Shares in payment of the Exercise Price if such action would cause the Company to recognize compensation expense (or additional compensation expense) with respect to the Option for financial reporting purposes.

(c) *Services Rendered.* At the discretion of the Committee, Shares may be awarded under the Plan in consideration of services rendered to the Company or a Subsidiary. If Shares are awarded without the payment of a Purchase Price in cash, the Committee shall make a determination (at the time of the Award) of the value of the services rendered by the Participant and the sufficiency of the consideration to meet the requirements of Section 6(b).

(d) *Cashless Exercise.* To the extent that a Stock Option Award Agreement so provides, payment may be made all or in part by delivery (on a form prescribed by the Committee) of an irrevocable direction to a securities broker to sell Shares and to deliver all or part of the sale proceeds to the Company in payment of the aggregate Exercise Price.

(e) *Exercise/Pledge.* To the extent that a Stock Option Award Agreement so provides, payment may be made all or in part by delivery (on a form prescribed by the Committee) of an irrevocable direction to a securities broker or lender to pledge Shares, as security for a loan, and to deliver all or part of the loan proceeds to the Company in payment of the aggregate Exercise Price.

(f) *Net Exercise.* To the extent that a Stock Option Award Agreement so provides, by a "net exercise" arrangement pursuant to which the number of Shares issuable upon exercise of the Option shall be reduced by the largest whole number of Shares having an aggregate Fair Market Value that does not exceed the aggregate exercise price (plus tax withholdings, if applicable) and any remaining balance of the aggregate exercise price (and/or applicable tax withholdings) not satisfied by such reduction in the number of whole Shares to be

15

issued shall be paid by the Optionee in cash other form of payment permitted under the Stock Option Agreement.

(g) *Promissory Note.* To the extent that a Stock Option Award Agreement or Restricted Share Award Agreement so provides, payment may be made all or in part by delivering (on a form prescribed by the Company) a full- recourse promissory note.

(h) *Other Forms of Payment.* To the extent that a Stock Option Award Agreement or Restricted Share Award Agreement so provides, payment may be made in any other form that is consistent with applicable laws, regulations and rules.

(i) *Limitations under Applicable Law.* Notwithstanding anything herein or in a Stock Option Award Agreement or Restricted Share Award Agreement to the contrary, payment may not be made in any form that is unlawful, as determined by the Committee in its sole discretion.

SECTION 9. STOCK APPRECIATION RIGHTS.

(a) *SAR Award Agreement.* Each grant of a SAR under the Plan shall be evidenced by a SAR Award Agreement between the Participant and the Company. Such SAR shall be subject to all applicable terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various SAR Award Agreements entered into under the Plan need not be identical.

(b) *Number of Shares.* Each SAR Award Agreement shall specify the number of Shares to which the SAR pertains and shall provide for the adjustment of such number in accordance with Section 11.

(c) *Exercise Price.* Each SAR Award Agreement shall specify the Exercise Price. The Exercise Price of a SAR shall not be less than 100% of the Fair Market Value of a Share on the date of grant. Notwithstanding the foregoing, SARs may be granted with an Exercise Price of less than 100% of the Fair Market Value per Share on the date of grant pursuant to a transaction described in, and in a manner consistent with, Section 424(a) of the Code. Subject to the foregoing in this Section 9(c), the Exercise Price under any SAR shall be determined by the Committee in its sole discretion.

(d) *Exercisability and Term.* Each SAR Award Agreement shall specify the date when all or any installment of the SAR is to become exercisable. The SAR Award Agreement shall also specify the term of the SAR. A SAR Award Agreement may provide for accelerated exercisability in the event of the Participant's death, disability or retirement or other events and may provide for expiration prior to the end of its term in the event of the termination of the Participant's service. SARs may be awarded in combination with Options, and such an Award may provide that the SARs will not be exercisable unless the related Options are forfeited. A SAR may be included in an ISO only at the time of grant but may be included in an NSO at the time of grant or thereafter. A SAR granted under the Plan may provide that it will be exercisable only in the event of a Change in Control.

(e) *Effect of Change in Control.* The Committee may determine, at the time of granting a SAR or thereafter, that such SAR shall become fully exercisable as to all Common Shares subject to such SAR in the event that a Change in Control occurs with respect to the Company.

(f) *Exercise of SARs.* Upon exercise of a SAR, the Participant (or any person having the right to exercise the SAR after his or her death) shall receive from the Company (a) Shares, (b) cash or (c) a combination of Shares and cash, as the Committee shall determine. The amount of cash and/or the Fair Market Value of Shares received upon exercise of SARs shall, in the aggregate, be equal to the amount by which the Fair Market Value (on the date of surrender) of the Shares subject to the SARs exceeds the Exercise Price.

(g) *Modification, Extension or Assumption of SARs.* Within the limitations of the Plan, the Committee may modify, extend or assume outstanding SARs or may accept the cancellation of outstanding SARs (whether granted by the Company or by another issuer) in return for the grant of new SARs for the same or a different number of Shares and at the same or a different Exercise Price, or in return for the grant of a different Award for the same or a different number of Shares or cash; provided, however, that other than in connection with an adjustment of Awards pursuant to Section 11, the Committee may

not modify outstanding SARs to lower the Exercise Price nor may the Committee assume or accept the cancellation of outstanding SARs in return for cash or the grant of new Awards when the Exercise Price is greater than the Fair Market Value of the Shares covered by such SARs, unless such action has been approved by the Company's stockholders. The foregoing notwithstanding, no modification of a SAR shall, without the consent of the holder, materially impair his or her rights or obligations under such SAR.

SECTION 10. STOCK UNITS.

(a) *Stock Unit Award Agreement.* Each grant of Stock Units under the Plan shall be evidenced by a Stock Unit Award Agreement between the Participant and the Company. Such Stock Units shall be subject to all applicable terms of the Plan and may be subject to any other terms that are not inconsistent with the Plan. The provisions of the various Stock Unit Award Agreements entered into under the Plan need not be identical.

(b) *Payment for Awards.* To the extent that an Award is granted in the form of Stock Units, no cash consideration shall be required of the Award recipients.

(c) *Vesting Conditions.* Each Award of Stock Units may or may not be subject to vesting. Vesting shall occur, in full or in installments, upon satisfaction of the conditions specified in the Stock Unit Award Agreement. A Stock Unit Award Agreement may provide for accelerated vesting in the event of the Participant's death, disability or retirement or other events. The Committee may determine, at the time of granting Stock Units or thereafter, that all or part of such Stock Units shall become vested in the event that a Change in Control occurs with respect to the Company.

(d) *Voting and Dividend Rights.* The holders of Stock Units shall have no voting rights. Prior to settlement or forfeiture, any Stock Unit awarded under the Plan may, at the Committee's discretion, carry with it a right to dividend equivalents. Such right entitles the holder to be credited with an amount equal to all cash dividends paid on one Share while the Stock Unit is outstanding. Dividend equivalents may be converted into additional Stock Units. Settlement of dividend equivalents may be made in the form of cash, in the form of Shares, or in a combination of both. Prior to distribution, any dividend equivalents which are not paid shall be subject to the same conditions and restrictions (including without limitation, any forfeiture conditions) as the Stock Units to which they attach.

17

(e) *Form and Time of Settlement of Stock Units.* Settlement of vested Stock Units may be made in the form of cash, (b) Shares or (c) any combination of both, as determined by the Committee. The actual number of Stock Units eligible for settlement may be larger or smaller than the number included in the original Award, based on predetermined performance factors. Methods of converting Stock Units into cash may include (without limitation) a method based on the average Fair Market Value of Shares over a series of trading days. A Stock Unit Award Agreement may provide that vested Stock Units may be settled in a lump sum or in installments. A Stock Unit Award Agreement may provide that the distribution may occur or commence when all vesting conditions applicable to the Stock Units have been satisfied or have lapsed, or it may be deferred to any later date, subject to compliance with Section 409A of the Code. The amount of a deferred distribution may be increased by an interest factor or by dividend equivalents. Until an Award of Stock Units is settled, the number of such Stock Units shall be subject to adjustment pursuant to Section 11.

(f) *Death of Participant.* Any Stock Unit Award that becomes payable after the Participant's death shall be distributed to the Participant's beneficiary or beneficiaries. Each recipient of a Stock Unit Award under the Plan shall designate one or more beneficiaries for this purpose by filing the prescribed form with the Company. A beneficiary designation may be changed by filing the prescribed form with the Company at any time before the Participant's death. If no beneficiary was designated or if no designated beneficiary survives the Participant, then any Stock Units Award that becomes payable after the Participant's death shall be distributed to the Participant's estate.

(g) *Creditors' Rights.* A holder of Stock Units shall have no rights other than those of a general creditor of the Company. Stock Units represent an unfunded and unsecured obligation of the Company, subject to the terms and conditions of the

applicable Stock Unit Award Agreement.

SECTION 11. ADJUSTMENT OF SHARES.

(a) *Adjustments.* In the event of a subdivision of the outstanding Stock, a declaration of a dividend payable in Shares, a declaration of a dividend payable in a form other than Shares in an amount that has a material effect on the price of Shares, a combination or consolidation of the outstanding Stock (by reclassification or otherwise) into a lesser number of Shares, a recapitalization, a spin-off or a similar occurrence, the Committee shall make appropriate and equitable adjustments in:

- (i) The number of Shares available for future Awards under Section 5;
- (ii) The limitations set forth in Sections 5(a) and (b) and Section 18;
- (iii) The number of NSOs to be granted to Outside Directors under Section 4(b);
- (iv) The number of Shares covered by each outstanding Award; and
- (v) The Exercise Price under each outstanding Option and SAR.

(b) *Dissolution or Liquidation.* To the extent not previously exercised or settled, Options, SARs and Stock Units shall terminate immediately prior to the dissolution or liquidation of the Company.

(c) *Reorganizations.* In the event that the Company is a party to a merger or other reorganization, outstanding Awards shall be subject to the agreement of merger or reorganization. Subject to compliance with Section 409A of the Code, such agreement shall provide for:

- (i) The continuation of the outstanding Awards by the Company, if the Company is a surviving corporation;
- (ii) The assumption of the outstanding Awards by the surviving corporation or its parent or subsidiary;
- (iii) The substitution by the surviving corporation or its parent or subsidiary of its own awards for the outstanding Awards;
- (iv) Immediate vesting, exercisability and settlement of outstanding Awards followed by the cancellation of such Awards upon or immediately prior to the effectiveness of such transaction; or
- (v) Settlement of the intrinsic value of the outstanding Awards (whether or not then vested or exercisable) in cash or cash equivalents or equity (including cash or equity subject to deferred vesting and delivery consistent with the vesting restrictions applicable to such Awards or the underlying Shares) followed by the cancellation of such Awards (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the Committee determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment); in each case without the Participant's consent. Any acceleration of payment of an amount that is subject to section 409A of the Code will be delayed, if necessary, until the earliest time that such payment would be permissible under Section 409A without triggering any additional taxes applicable under Section 409A.

The Company will have no obligation to treat all Awards, all Awards held by a Participant, or all Awards of the same type, similarly.

(d) *Reservation of Rights.* Except as provided in this Section 11, a Participant shall have no rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any dividend or any other increase or decrease in the number of shares of stock of any class. Any issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number or Exercise Price of Shares subject to an Award. The grant of an Award pursuant to the Plan shall not

affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets. In the event of any change affecting the Shares or the Exercise Price of Shares subject to an Award, including a merger or other reorganization, for reasons of administrative convenience, the Company in its sole discretion may refuse to permit the exercise of any Award during a period of up to thirty (30) days prior to the occurrence of such event.

SECTION 12. DEFERRAL OF AWARDS.

(a) *Committee Powers.* Subject to compliance with Section 409A of the Code, the Committee (in its sole discretion) may permit or require a Participant to:

- (i) Have cash that otherwise would be paid to such Participant as a result of the exercise of a SAR or the settlement of Stock Units credited to a deferred compensation account established for such Participant by the Committee as an entry on the Company's books;
- (ii) Have Shares that otherwise would be delivered to such Participant as a result of the exercise of an Option or SAR converted into an equal number of Stock Units; or
- (iii) Have Shares that otherwise would be delivered to such Participant as a result of the exercise of an Option or SAR or the settlement of Stock Units converted into amounts credited to a deferred compensation account established for such Participant by the Committee as an entry on the Company's books. Such amounts shall be determined by reference to the Fair Market Value of such Shares as of the date when they otherwise would have been delivered to such Participant.

(b) *General Rules.* A deferred compensation account established under this Section 12 may be credited with interest or other forms of investment return, as determined by the Committee. A Participant for whom such an account is established shall have no rights other than those of a general creditor of the Company. Such an account shall represent an unfunded and unsecured obligation of the Company and shall be subject to the terms and conditions of the applicable agreement between such Participant and the Company. If the deferral or conversion of Awards is permitted or required, the Committee (in its sole discretion) may establish rules, procedures and forms pertaining to such Awards, including (without limitation) the settlement of deferred compensation accounts established under this Section 12.

SECTION 13. AWARDS UNDER OTHER PLANS.

The Company may grant awards under other plans or programs. Such awards may be settled in the form of Shares issued under this Plan. Such Shares shall be treated for all purposes under the Plan like Shares issued in settlement of Stock Units and shall, when issued, reduce the number of Shares available under Section 5.

SECTION 14. PAYMENT OF DIRECTOR'S FEES IN SECURITIES.

(a) *Effective Date.* No provision of this Section 14 shall be effective unless and until the Board has determined to implement such provision.

(b) *Elections to Receive NSOs, SARs, Restricted Shares or Stock Units.* An Outside Director may elect to receive his or her annual retainer payments and/or meeting fees from the Company in the form of cash, NSOs, SARs, Restricted Shares or Stock Units, or a combination thereof, as determined by the Board. Alternatively, the Board may mandate payment in any of such alternative forms. Such NSOs, SARs, Restricted Shares and Stock Units shall be issued under the Plan. An election under this Section 14 shall be filed with the Company on the prescribed form.

(c) **Number and Terms of NSOs, SARs, Restricted Shares or Stock Units.** The number of NSOs, SARs, Restricted Shares or Stock Units to be granted to Outside Directors in lieu of annual retainers and meeting fees that would otherwise be paid in cash shall be calculated in a manner determined by the Board. The terms of such NSOs, SARs, Restricted Shares or Stock Units shall also be determined by the Board.

SECTION 15. LEGAL AND REGULATORY REQUIREMENTS.

Shares shall not be issued under the Plan unless the issuance and delivery of such Shares complies with (or is exempt from) all applicable requirements of law, including (without limitation) the Securities Act of 1933, as amended, the rules and regulations promulgated thereunder, state securities laws and regulations and the regulations of any stock exchange on which the Company's securities may then be listed, and the Company has obtained the approval or favorable ruling from any governmental agency which the Company determines is necessary or advisable. The Company shall not be liable to a Participant or other persons as to: (a) the non-issuance or sale of Shares as to which the Company has not obtained from any regulatory body having jurisdiction the authority deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares under the Plan; and (b) any tax consequences expected, but not realized, by any Participant or other person due to the receipt, exercise or settlement of any Award granted under the Plan.

SECTION 16. TAXES.

(a) **Withholding Taxes.** To the extent required by applicable federal, state, local or foreign law, a Participant or his or her successor shall make arrangements satisfactory to the Company for the satisfaction of any withholding tax obligations that arise in connection with the Plan. The Company shall not be required to issue any Shares or make any cash payment under the Plan until such obligations are satisfied.

(b) **Share Withholding.** The Committee may permit a Participant to satisfy all or part of his or her withholding or income tax obligations by having the Company withhold all or a portion of any Shares that otherwise would be issued to him or her or by surrendering all or a portion of any Shares that he or she previously acquired. Such Shares shall be valued at their Fair Market Value on the date when taxes otherwise would be withheld in cash. In no event may a Participant have Shares withheld that would otherwise be issued to him or her in excess of the number necessary to satisfy the minimum legally required tax withholding.

(c) **Section 409A.** Each Award that provides for "nonqualified deferred compensation" within the meaning of Section 409A of the Code shall be subject to such additional rules and requirements as specified by the Committee from time to time in order to comply with Section 409A. If any amount under such an Award is payable upon a "separation from service" (within the meaning of Section 409A) to a Participant who is then considered a "specified employee" (within the meaning of Section 409A), then no such payment shall be made prior to the date that is the earlier of (i) six months and one day after the Participant's separation from service, or (ii) the Participant's death, but only to the extent such delay is necessary to prevent such payment from being subject to interest, penalties and/or additional tax imposed pursuant to Section 409A. In addition, the settlement of any such Award may not be accelerated except to the extent permitted by Section 409A.

SECTION 17. TRANSFERABILITY.

Unless the agreement evidencing an Award (or an amendment thereto authorized by the Committee) expressly provides otherwise, no Award granted under this Plan, nor any interest in such Award, may be sold, assigned, conveyed, gifted, pledged, hypothecated or otherwise transferred in any manner (prior to the vesting and lapse of any and all restrictions applicable to Shares issued under such Award), other than by will or the laws of descent and distribution; provided, however, that an ISO may be transferred or assigned only to the extent consistent with Section 422 of the Code. Any purported assignment, transfer or encumbrance in violation of this Section 17 shall be void and unenforceable against the Company.

SECTION 18. PERFORMANCE BASED AWARDS.

The number of Shares or other benefits granted, issued, retainable and/or vested under an Award may be made subject to the attainment of performance goals. The Committee may utilize any performance criteria selected by it in its sole discretion to establish performance goals; provided, however, that in the case of any Performance Based Award, the following conditions shall apply:

- (i) The amount potentially available under a Performance Based Award shall be subject to the attainment of pre-established, objective performance goals relating to a specified period of service based on one or more of the following performance criteria: (a) cash flow (including operating cash flow), (b) earnings per share, (c) earnings before any combination of interest, taxes, depreciation or amortization, (d) return on equity, (e) total stockholder return, (f) share price performance, (g) return on capital, (h) return on assets or net assets, (i) revenue, (j) income or net income, (k) operating income or net operating income, (l) operating profit or net operating profit, (m) operating margin or profit margin, (n) return on operating revenue, (o) return on invested capital, (p) market segment shares, (q) costs, (r) expenses, (s) achievement of target levels of discovery and/or development of products or services, including but not limited to research or regulatory achievements, (t) third party coverage and/or reimbursement objectives, or (u) test volume metrics ("Qualifying Performance Criteria"), any of which may be measured either individually, alternatively or in any combination, applied to either the Company as a whole or to a business unit or Subsidiary, either individually, alternatively or in any combination, and measured either annually or cumulatively over a period of years, on an absolute basis or relative to a pre-established target, to previous years' results or to a designated comparison group or index, in each case as specified by the Committee in the Award;
- (ii) Unless specified otherwise by the Committee at the time the performance goals are established or otherwise within the time prescribed by Section 162(m) of the Code, the Committee shall appropriately adjust the method of evaluating performance under a Qualifying Performance Criteria for a performance period as follows: (i) to exclude asset write-downs, (ii) to exclude litigation or claim judgments or settlements, (iii) to exclude the effect of changes in tax law, accounting principles or other such laws or provisions affecting reported results, (iv) to exclude accruals for reorganization and restructuring programs, (v) to exclude any extraordinary nonrecurring items as determined under generally accepted accounting principles and/or described in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to stockholders for the applicable year, (vi) to exclude the dilutive effects of acquisitions or joint ventures, (vii) to assume that any business divested by the Company achieved performance objectives at targeted levels

22

during the balance of a performance period following such divestiture, (viii) to exclude the effect of any change in the outstanding shares of common stock of the Company by reason of any stock dividend or split, stock repurchase, reorganization, recapitalization, merger, consolidation, spin-off, combination or exchange of shares or other similar corporate change, or any distributions to common stockholders other than regular cash dividends, (ix) to exclude the effects of stock based compensation and the award of bonuses under the Company's bonus plans; and (x) to exclude costs incurred in connection with potential acquisitions or divestitures that are required to be expensed under generally accepted accounting principles, in each case in compliance with Section 162(m);

- (ii) The Committee shall establish the applicable performance goals in writing and an objective method for determining the Award earned by a Participant if the goals are attained, while the outcome is substantially uncertain and not later than the 90th day of the performance period (but in no event after 25% of the period of service with respect to which the performance goals relate has elapsed), and shall determine and certify in writing, for each Participant, the extent to which the performance goals have been met prior to payment or vesting of the Award; and
- (iv) The Committee may not in any event increase the amount of compensation payable under the Plan upon the attainment of the pre-established performance goals to a Participant who is a "covered employee" within the meaning of Section 162(m) of the Code.

(v) The maximum aggregate number of Shares that may be subject to Performance Based Awards granted to a Participant in any calendar year is 500,000 Shares (subject to adjustment under Section 11), and no more than two times this amount in the first year of employment.

SECTION 19. NO EMPLOYMENT RIGHTS.

No provision of the Plan, nor any Award granted under the Plan, shall be construed to give any person any right to become, to be treated as, or to remain an Employee or Consultant. The Company and its Subsidiaries reserve the right to terminate any person's Service at any time and for any reason, with or without notice.

SECTION 20. DURATION AND AMENDMENTS.

(a) *Term of the Plan.* The Plan, as set forth herein, shall terminate automatically on October 11, 2033. The Board of Directors may suspend or terminate the Plan at any time.

(b) *Right to Amend the Plan.* The Board of Directors may amend the Plan at any time and from time to time. Rights and obligations under any Award granted before amendment of the Plan shall not be materially impaired by such amendment, except with consent of the Participant. An amendment of the Plan shall be subject to the approval of the Company's stockholders only to the extent required by applicable laws, regulations or rules.

(c) *Effect of Termination.* No Awards shall be granted under the Plan after the termination thereof. The termination of the Plan shall not affect Awards previously granted under the Plan.

23

SECTION 21. EXECUTION.

To record the adoption of the Plan by the Board of Directors, the Company has caused its authorized officer to execute the same.

EGAIN CORPORATION

By /s/ Eric N. Smit

Name Eric N. Smit

Title Chief Financial Officer

24

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