

Synacor, Inc.  
Form 424B5  
April 05, 2017  
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Filed Pursuant to Rule 424(b)(5)  
Registration No. 333-214600

**The information in this preliminary prospectus supplement and the accompanying prospectus is not complete and may be changed. A registration statement relating to these securities has been declared effective by the Securities and Exchange Commission. This preliminary prospectus supplement and the accompanying prospectus are not an offer to sell nor do they solicit an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION,**

**DATED APRIL 5, 2017**

PRELIMINARY PROSPECTUS SUPPLEMENT

(to Prospectus dated December 1, 2016)

**Shares**

**Common Stock**

**\$ per share**

We are offering                      shares of our common stock.

Our common stock is listed on The NASDAQ Global Market under the symbol SYNC. On April 4, 2017, the last reported sale price of our common stock on The NASDAQ Global Market was \$4.10 per share.

We are an emerging growth company as that term is used in the Jumpstart Our Business Startups Act of 2012 and, as such, have elected to comply with certain reduced public company reporting requirements for this prospectus supplement and future filings.

**Investing in our common stock involves a high degree of risk. See Risk Factors beginning on page S-5 of this prospectus supplement and page 3 of the accompanying prospectus.**

	<b>Per Share</b>	<b>Total</b>
Public offering price	\$	\$
Underwriting discount and commissions(1)	\$	\$
Proceeds, before expenses, to us	\$	\$

(1) We refer you to the section entitled "Underwriting" beginning on page S-16 of this prospectus supplement for additional information regarding total underwriter compensation.

We have granted the underwriters an option for a period of 30 days to purchase up to an additional \_\_\_\_\_ shares of our common stock. If the underwriters exercise the option in full, the total underwriting discounts and commissions payable by us will be \$ \_\_\_\_\_ and the total proceeds to us, before expenses, will be \$ \_\_\_\_\_.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Delivery of the shares of common stock is expected to be made on or about April \_\_\_\_\_, 2017.

*Joint Book-Running Managers*

**Canaccord Genuity**

**Needham & Company**

**The date of this prospectus supplement is April \_\_\_\_\_, 2017.**

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**ABOUT THIS PROSPECTUS SUPPLEMENT**

This document is in two parts. The first part is this prospectus supplement, which describes the terms of this offering of common stock and related matters. The second part is the accompanying prospectus, which gives more general information, some of which may not apply to this offering of common stock. To the extent the information contained in this prospectus supplement differs or varies from the information contained in the accompanying prospectus or any document incorporated by reference, the information in this prospectus supplement shall control.

All references in this prospectus supplement and the accompanying prospectus to Synacor, the Company, we, us, or similar references refer to Synacor, Inc. and its subsidiaries, except where the context otherwise requires or as otherwise indicated.

You should rely only on the information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus and any free-writing prospectus that we authorize to be distributed to you. We have not, and the underwriters have not, authorized anyone to provide you with different information. This prospectus supplement and the accompanying prospectus are not an offer to sell, nor are they seeking an offer to buy, these securities in any jurisdiction where the offer or sale is not permitted. The information in this prospectus supplement and the accompanying prospectus are complete and accurate as of the date the information is presented, but the information may have changed since that date.

Synacor<sup>®</sup> and our design logo used in this prospectus supplement and the accompanying prospectus are our trademarks. This prospectus supplement and the accompanying prospectus may also include other trademarks, tradenames and service marks that are the property of their respective holders. Solely for convenience, trademarks and tradenames referred to in this prospectus supplement and the accompanying prospectus may appear without the <sup>®</sup> and symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights, or that the applicable holder will not assert its rights, to these trademarks and tradenames.

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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus supplement, the accompanying prospectus and the documents incorporated by reference in these documents contain forward-looking statements. Words such as, but not limited to, believe, expect, anticipate, estimate, intend, plan, project, target, goal, likely, will, would, and could, or the negative of these terms and similar words, identify forward-looking statements. Forward-looking statements are based upon current expectations that involve risks, changes in circumstances, assumptions and uncertainties. Important factors that could cause actual results to differ materially from those reflected in our forward-looking statements include, among others:

our expected future financial performance;

our expectations regarding our operating expenses and revenues;

our strategies and business plan;

our ability to maintain or broaden relationships with existing customers and develop relationships with new customers;

our success in anticipating market needs or developing new or enhanced services and products to meet those needs;

our expectations regarding market acceptance of our services and products;

our ability to recruit and retain qualified technical and other key personnel;

our competitive position in our industry, as well as innovations by our competitors;

our success in managing growth;

our expansion in international markets;

our ability to successfully integrate assets and personnel from our acquisitions;

our success in identifying and managing potential acquisitions;

our capacity to protect our confidential information and intellectual property rights;

the use or sufficiency of our cash and cash equivalents, including the expected proceeds from this offering;

our need to obtain additional funding and our ability to obtain funding in the future on acceptable terms; and

anticipated trends and challenges in our business and the markets in which we operate.

All written and verbal forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We caution investors not to rely too heavily on the forward-looking statements we make or that are made on our behalf. We undertake no obligation, and specifically decline any obligation, to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

This prospectus supplement and accompanying prospectus include statistical and other industry and market data that we obtained from industry publications and research, surveys and studies conducted by third parties. Industry publications and third-party research, surveys and studies generally indicate that their information has been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. While we believe these industry publications and third-party research, surveys and studies are reliable, we have not independently verified such data.

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In addition, you should refer to the section of this prospectus supplement entitled "Risk Factors" as well as the documents we have incorporated by reference for a discussion of other important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements. As a result of these factors, we cannot assure you that the forward-looking statements in this prospectus supplement will prove to be accurate. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all.

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**PROSPECTUS SUMMARY**

*The following summary is qualified in its entirety by, and should be read together with, the risk factors and more detailed information and financial statements and related notes thereto appearing elsewhere or incorporated by reference in this prospectus supplement and the accompanying prospectus.*

**Company Overview**

We enable our customers to better engage with their consumers. Our customers include video, internet and communications providers, device manufacturers, governments and enterprises. We are their trusted technology development, multiplatform services and revenue partner. Our customers use our technology platforms and services to scale their businesses and extend their subscriber relationships. We deliver managed portals, advertising solutions, email and collaboration platforms, end-to-end video solutions and cloud-based identity management.

We enable our customers to provide their consumers engaging, multiscreen experiences with products that require scale, actionable data and sophisticated implementation. Through our Managed Portals and Advertising solutions, we enable our customers to earn incremental revenue by monetizing media among their consumers. At the same time, because consumers have high expectations for their online experience as a result of advances in video, mobile and social, we provide, through our Recurring and Fee-Based Revenue solutions, a suite of products and services that helps our customers successfully meet those high expectations by enabling them to deliver to their consumers access to the same digital content across all devices, including PCs, tablets, smartphones and connected TVs.

**Our Corporate Information**

Synacor's predecessor company was originally formed as a New York corporation, and in November 2002, Synacor re-incorporated under the laws of the State of Delaware. Our headquarters are located at 40 La Riviere Drive, Buffalo, New York 14202, and our telephone number is (716) 853-1362. Our website address is [www.synacor.com](http://www.synacor.com). Information contained on our website is not incorporated by reference into this prospectus supplement, and you should not consider information contained on our website to be part of this prospectus supplement or in deciding whether to purchase shares of our common stock. Our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to reports filed or furnished pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), are available free of charge on the Investors portion of our website at <http://investor.synacor.com/> as soon as reasonably practicable after we electronically file such material with, or furnish it to, the U.S. Securities and Exchange Commission (the SEC).

**Implications of Being an Emerging Growth Company**

As a company with less than \$1.0 billion in revenue during our last fiscal year, we qualify as an emerging growth company as defined in the Jumpstart Our Business Startups Act of 2012 (JOBS Act). An emerging growth company may take advantage of specified reduced reporting and other burdens that are otherwise applicable generally to public companies. These provisions include:

a requirement to have only two years of audited financial statements and only two years of related management's discussion and analysis;

exemption from the auditor attestation requirement on the effectiveness of our internal controls over financial reporting;

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reduced disclosure about the company's executive compensation arrangements; and

no non-binding advisory votes on executive compensation or golden parachute arrangements.

We may take advantage of these provisions until December 31, 2017 or until such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company if we have more than \$1.0 billion in annual revenue, have more than \$700 million in market value of our capital stock held by non-affiliates, or issue more than \$1.0 billion of non-convertible debt over a three-year period. We may choose to take advantage of some but not all of these reduced burdens.

Additionally, as a smaller reporting company we have taken advantage of certain reduced reporting obligations available to smaller reporting companies.

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**THE OFFERING**

Common stock offered by us	shares of common stock.
Option to purchase additional shares	We have granted the underwriters an option for a period of up to 30 days from the date of this prospectus supplement to purchase up to additional shares of common stock at the public offering price less the underwriting discounts and commissions.
Offering price	\$ per share of common stock.
Common stock to be outstanding after this offering	shares (or shares if the underwriters exercise in full their option to purchase additional shares).
Use of proceeds	We intend to use the net proceeds from this offering for general corporate purposes and working capital. In addition, we believe the net proceeds will strengthen our balance sheet and allow us to acquire, or finance on more attractive terms, equipment and other capital investments necessary to support additional customers and the delivery of additional services to existing customers. See the section titled Use of Proceeds.
Risk Factors	You should read the Risk Factors section of this prospectus supplement and in the documents incorporated by reference in this prospectus supplement for a discussion of factors to consider before deciding to purchase shares of our common stock.
NASDAQ Global Market Symbol	SYNC
The number of shares of our common stock outstanding is based on 30,881,148 shares of our common stock outstanding as of December 31, 2016, and excludes the following:	

8,756,174 shares of common stock issuable upon exercise of stock options outstanding as of December 31, 2016, at a weighted average exercise price of approximately \$2.53 per share;

319,889 shares issuable upon vesting of restricted stock units;

991,973 shares of common stock reserved for future grants under our 2012 Equity Incentive Plan as of December 31, 2016 (subject to automatic annual adjustment in accordance with the terms of the 2012 Equity Incentive Plan, including an additional 1,238,938 shares of common stock added to the plan as of January 2, 2017); and

480,000 shares of our common stock issuable upon exercise of warrants outstanding as of December 31, 2016, at an exercise price of \$3.00 per share.

The number of shares of our common stock presented above also excludes:

600,000 shares of common stock issued to, and 120,000 shares of our common stock issuable upon exercise of warrants issued to, TZ Holdings, Inc. (formerly known as Zimbra, Inc.) (TZ Holdings) on March 16, 2017, which had previously been held back to secure indemnification obligations of TZ Holdings; and

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1,087,800 shares of common stock issuable upon the exercise of options granted after December 31, 2016, with a weighted average exercise price of \$3.17 per share.

Unless otherwise indicated, all information in this prospectus assumes:

that the underwriters do not exercise their option to purchase up to                      additional shares of our common stock;

no exercise of the outstanding options or warrants described above; and

no release of any shares of common stock or warrants from the securities held back to secure indemnification obligations of TZ Holdings.

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**Table of Contents****RISK FACTORS**

*An investment in our common stock involves a high degree of risk. You should carefully consider the risks described under **Risk Factors** in our most recent Annual Report on Form 10-K and Quarterly Reports on Form 10-Q, and all of the other information contained in this prospectus supplement and the accompanying prospectus, and incorporated by reference into this prospectus supplement and the accompanying prospectus, including our financial statements and related notes, before investing in our common stock. If any of the possible events described below or in those sections actually occur, our business, business prospects, cash flow, results of operations or financial condition could be harmed, the trading price of our common stock could decline, and you might lose all or part of your investment in our common stock. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our operations and results.*

**Risks Related to This Offering and Our Common Stock**

***You will experience immediate and substantial dilution.***

The offering price per share in this offering may exceed the net tangible book value per share of our common stock outstanding prior to this offering. Based on \_\_\_\_\_ shares of our common stock being sold at the public offering price of \$ \_\_\_\_\_ per share, for aggregate gross proceeds of approximately \$ \_\_\_\_\_ million, and after deducting underwriting discounts and commissions and estimated aggregate offering expenses payable by us, you will experience immediate dilution of \$ \_\_\_\_\_ per share, representing the difference between our as adjusted net tangible book value per share as of December 31, 2016 after giving effect to this offering and the public offering price. In addition, we are not restricted from issuing additional securities in the future, including shares of common stock, securities that are convertible into or exchangeable for, or that represent the right to receive, common stock or substantially similar securities. The issuance of these securities may cause further dilution to our stockholders. The exercise of outstanding stock options and the vesting of outstanding restricted stock units may also result in further dilution of your investment. See the section entitled **Dilution** on page S-10 below for a more detailed illustration of the dilution you may incur if you participate in this offering.

***We may allocate our cash and cash equivalents in ways that you and other stockholders may not approve.***

Our management has broad discretion in the application of our cash, cash equivalents and marketable securities, including the expected proceeds of this offering. Because of the number and variability of factors that will determine our use of our cash and cash equivalents, their ultimate use may vary substantially from their currently intended use. Our management might not apply our cash and cash equivalents in ways that ultimately increase the value of your investment. We expect to use our cash and cash equivalents to acquire, or finance on more attractive terms, equipment and other capital investments necessary to support additional customers and the delivery of additional services to existing customers and for working capital and other general corporate purposes. The failure by our management to apply these funds effectively could harm our business. Pending their use, we may invest our cash and cash equivalents in short-term, investment-grade, interest-bearing securities. These investments may not yield a favorable return to our stockholders. If we do not invest or apply our cash and cash equivalents in ways that enhance stockholder value, we may fail to achieve expected financial results, which could cause our stock price to decline.

***If our shares become subject to the penny stock rules, it would become more difficult to trade our shares.***

The SEC has adopted rules that regulate broker-dealer practices in connection with transactions in penny stocks. Penny stocks are generally equity securities with a price of less than \$5.00, other than securities registered on certain national securities exchanges or authorized for quotation on certain automated quotation systems, provided that

current price and volume information with respect to transactions in such securities is provided by the exchange or system. If we do not retain a listing on The NASDAQ Global Market and if the price of our common stock is less than \$5.00, our common stock will be deemed a penny stock. The penny stock rules require a broker-dealer, before a transaction in a penny stock not otherwise exempt from those rules, to deliver a standardized risk disclosure document containing specified information. In addition, the penny stock rules

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require that before effecting any transaction in a penny stock not otherwise exempt from those rules, a broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive (i) the purchaser's written acknowledgment of the receipt of a risk disclosure statement; (ii) a written agreement to transactions involving penny stocks; and (iii) a signed and dated copy of a written suitability statement. These disclosure requirements may have the effect of reducing the trading activity in the secondary market for our common stock, and therefore stockholders may have difficulty selling their shares.

***Investors may not be able to resell their shares at or above the price at which they purchased them and an active trading market for our common stock may not fully develop or be sustained.***

Investors may not be able to sell their common stock at or above the price they paid or at the time that they would like to sell. An active trading market for our shares may never fully develop or be sustained. An inactive trading market may impair our ability to raise capital by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration, which, in turn, could harm our business.

***A substantial number of shares of our common stock could be sold into the public market in the near future, which could depress our stock price.***

Sales of substantial amounts of our common stock in the public market could reduce the prevailing market prices for our common stock. Substantially all of our outstanding common stock is eligible for sale as are common stock issuable under vested and exercisable stock options and warrants. If our existing stockholders sell a large number of shares of our common stock, or the public market perceives that existing stockholders might sell shares of common stock, the market price of our common stock could decline significantly. These sales might also make it more difficult for us to sell equity securities at a time and price that we deem appropriate.

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**USE OF PROCEEDS**

We estimate that the net proceeds from the public sale of shares of our common stock in this offering will be approximately \$            million, or approximately \$            million if the underwriters exercise in full their option to purchase additional shares of common stock, based on the public offering price of \$            per share, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us. As of December 31, 2016, we had cash and cash equivalents of \$14.3 million.

We intend to use the net proceeds from this offering for general corporate purposes and working capital. In addition, we believe the net proceeds will strengthen our balance sheet and allow us to acquire, or finance on more attractive terms, equipment and make other capital investments necessary to support additional customers and the delivery of additional services to existing customers.

This expected use of net proceeds from this offering represents our intentions based upon our current plans and business conditions, which could change in the future as our plans and business conditions evolve. We may also use a portion of the net proceeds to acquire or invest in businesses, products or technologies that we believe are complementary to our own, although we are not currently planning or negotiating any such transactions. We have not yet determined the amount of net proceeds to be used specifically for any of the foregoing purposes. Accordingly, our management will have significant discretion and flexibility in applying the net proceeds from the sale of these securities. Pending any use, as described above, we intend to invest the net proceeds in high-quality, short-term, interest-bearing securities.

**Table of Contents****PRICE RANGE OF OUR COMMON STOCK**

Our common stock is traded on The NASDAQ Global Market under the symbol SYNC. The following table summarizes the high and low sales prices for our common stock as reported by The NASDAQ Global Market for the period indicated:

	<b>High</b>	<b>Low</b>
<b>2015</b>		
First Quarter	\$ 2.83	\$ 1.95
Second Quarter	2.64	1.58
Third Quarter	1.88	1.03
Fourth Quarter	1.88	1.29
<b>2016</b>		
First Quarter	\$ 1.95	\$ 1.38
Second Quarter	3.98	1.33
Third Quarter	3.34	2.51
Fourth Quarter	3.40	2.65
<b>2017</b>		
First Quarter	\$ 4.25	\$ 2.90
Second Quarter (through April 4, 2017)	4.20	4.05

The last reported sale price for our common stock on The NASDAQ Global Market on April 4, 2017 was \$4.10.

**DIVIDEND POLICY**

We have never declared or paid cash dividends on our common stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any cash dividends in the foreseeable future. Any future determination to declare cash dividends will be made at the discretion of our board of directors, subject to compliance with certain covenants under our credit facilities, which restrict or limit our ability to declare or pay dividends, and will depend on our financial condition, results of operations, capital requirements, general business conditions and other factors that our board of directors may deem relevant.

**Table of Contents****CAPITALIZATION**

The following table sets forth our cash, cash equivalents and capitalization as of December 31, 2016:

on an actual basis; and

on an as adjusted basis to give effect to the issuance and sale by us of \_\_\_\_\_ shares of common stock in this offering, and the receipt of the net proceeds from the sale of these shares, at the public offering price of \$ \_\_\_\_\_, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

You should read this table in conjunction with the sections titled Management's Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements and related notes appearing in our most recent Annual Report on Form 10-K, which is incorporated by reference in this prospectus supplement and the accompanying prospectus.

	<b>December 31, 2016 (actual) (in thousands)</b>	<b>December 31, 2016 (as adjusted) (in thousands)</b>
Cash and cash equivalents	\$ 14,315	\$
Stockholders' equity:		
Preferred stock, \$0.01 par value 10,000,000 shares authorized, none issued and outstanding at December 31, 2016		
Common stock, \$0.01 par value 100,000,000 shares authorized; 31,626,635 shares issued and 30,881,148 shares outstanding at December 31, 2016; shares issued and shares outstanding, as adjusted	316	
Treasury stock, at cost 745,487 shares at December 31, 2016	(1,547)	(1,547)
Additional paid-in capital	117,747	
Accumulated other comprehensive loss	(17)	(17)
Accumulated deficit	(76,850)	(76,850)
<b>Total stockholders' equity</b>	<b>39,649</b>	
<b>Total capitalization</b>	<b>\$ 39,649</b>	<b>\$</b>

The number of shares in the table above excludes:

8,756,174 shares of common stock issuable upon exercise of stock options outstanding as of December 31, 2016, at a weighted average exercise price of approximately \$2.53 per share;

319,889 shares issuable upon vesting of restricted stock units;

991,973 shares of common stock reserved for future grants under our 2012 Equity Incentive Plan as of December 31, 2016 (subject to automatic annual adjustment in accordance with the terms of the 2012 Equity Incentive Plan, including an additional 1,238,938 shares of common stock added to the plan as of January 2, 2017); and

480,000 shares of our common stock issuable upon exercise of warrants outstanding as of December 31, 2016, at an exercise price of \$3.00 per share.

The number of shares of our common stock presented above also excludes:

600,000 shares of common stock issued to, and 120,000 shares of our common stock issuable upon exercise of warrants issued to, TZ Holdings on March 16, 2017, which had previously been held back to secure indemnification obligations of TZ Holdings; and

1,087,800 shares of common stock issuable upon the exercise of options granted after December 31, 2016, with a weighted average exercise price of \$3.17 per share.

**Table of Contents****DILUTION**

If you purchase our common stock in this offering, your ownership interest will be diluted to the extent of the difference between the public offering price per share of common stock and the pro forma net tangible book value per share of our common stock after this offering. Net tangible book value per share is determined by dividing the number of outstanding shares of our common stock into our total tangible assets (total assets less intangible assets) less total liabilities. As of December 31, 2016, we had a historical net tangible book value of our common stock of \$8.9 million, or approximately \$0.29 per share.

Investors participating in this offering will incur immediate, substantial dilution. After giving effect to the sale of shares of common stock in this offering at a public offering price of \$            per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, our net tangible book value as of December 31, 2016 would have been approximately \$            million, or approximately \$            per share of common stock. This represents an immediate increase in net tangible book value of approximately \$            per share to existing stockholders, and an immediate dilution of approximately \$            per share to investors participating in this offering.

The following table illustrates this per share dilution:

Public offering price per share	\$
Historical net tangible book value per share as of December 31, 2016	\$ 0.29
Increase in net tangible book value per share after this offering	\$
Net tangible book value per share after this offering	\$
Dilution per share to investors participating in this offering	\$

If the underwriters exercise in full their option to purchase additional shares, our net tangible book value as of December 31, 2016, after giving effect to this offering, would have been approximately \$            million, or approximately \$            per share, representing an immediate dilution of \$            per share to new investors purchasing shares of common stock in this offering.

The above discussion and tables excludes:

8,756,174 shares of common stock issuable upon exercise of stock options outstanding as of December 31, 2016, at a weighted average exercise price of approximately \$2.53 per share;

319,889 shares issuable upon vesting of restricted stock units;

991,973 shares of common stock reserved for future grants under our 2012 Equity Incentive Plan as of December 31, 2016 (subject to automatic annual adjustment in accordance with the terms of the 2012 Equity Incentive Plan, including an additional 1,238,938 shares of common stock added to the plan as of January 2, 2017); and

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480,000 shares of our common stock issuable upon exercise of warrants outstanding as of December 31, 2016, at an exercise price of \$3.00 per share.

To the extent that any of these options are exercised, new options are issued under our equity incentive plans and subsequently exercised or we issue additional shares of common stock in the future, there will be further dilution to investors participating in this offering.

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The number of shares of our common stock presented above also excludes:

600,000 shares of common stock issued to, and 120,000 shares of our common stock issuable upon exercise of warrants issued to, TZ Holdings on March 16, 2017, which had previously been held back to secure indemnification obligations of TZ Holdings; and

1,087,800 shares of common stock issuable upon the exercise of options granted after December 31, 2016, with a weighted average exercise price of \$3.17 per share.

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**MATERIAL U.S. FEDERAL TAX CONSIDERATIONS FOR NON-U.S. HOLDERS**

The following summary describes the material U.S. federal income and estate tax consequences of the acquisition, ownership and disposition of our common stock acquired in this offering by Non-U.S. Holders (as defined below). This discussion does not address all aspects of U.S. federal income and estate taxes and does not deal with foreign, state and local consequences that may be relevant to Non-U.S. Holders in light of their particular circumstances, nor does it address U.S. federal tax consequences other than income and estate taxes. Special rules different from those described below may apply to certain Non-U.S. Holders that are subject to special treatment under the U.S. Internal Revenue Code of 1986, as amended (the Code), such as financial institutions, insurance companies, tax-exempt organizations, broker-dealers and traders in securities, U.S. expatriates, controlled foreign corporations, passive foreign investment companies, corporations that accumulate earnings to avoid U.S. federal income tax, persons that hold our common stock as part of a straddle, hedge, conversion transaction, synthetic security or integrated investment or other risk reduction strategy, persons subject to the alternative minimum tax or Medicare contribution tax, partnerships and other pass-through entities, and investors in such pass-through entities. Such Non-U.S. Holders are urged to consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them. Furthermore, the discussion below is based upon the provisions of the Code, and Treasury regulations, rulings and judicial decisions thereunder as of the date hereof, and such authorities may be repealed, revoked or modified, perhaps retroactively, so as to result in U.S. federal income and estate tax consequences different from those discussed below. We have not requested a ruling from the U.S. Internal Revenue Service (IRS) with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS will agree with such statements and conclusions. This discussion assumes that the Non-U.S. Holder holds our common stock as a capital asset within the meaning of Section 1221 of the Code (generally, property held for investment).

Persons considering the purchase of our common stock pursuant to this offering should consult their own tax advisors concerning the U.S. federal income and estate tax consequences of acquiring, owning and disposing of our common stock in light of their particular situations as well as any consequences arising under the laws of any other taxing jurisdiction, including any state, local or foreign tax consequences.

For the purposes of this discussion, a Non-U.S. Holder is, for U.S. federal income tax purposes, a beneficial owner of common stock that is neither a U.S. Holder, a partnership (or other entity treated as a partnership for U.S. federal income tax purposes regardless of its place of organization or formation), nor an entity that is treated as a disregarded entity for U.S. federal income tax purposes (regardless of its place of organization or formation). A U.S. Holder means a beneficial owner of our common stock that is for U.S. federal income tax purposes (a) an individual who is a citizen or resident of the United States, (b) a corporation or other entity treated as a corporation created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate the income of which is subject to U.S. federal income taxation regardless of its source or (d) a trust if it (1) is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

If an entity that is classified as a partnership for U.S. federal income tax purposes holds our common stock, the tax treatment of persons treated as its partners for U.S. federal income tax purposes will generally depend upon the status of such partner and the activities of the said entity. Partnerships and other entities that are classified as partnerships for U.S. federal income tax purposes and persons holding our common stock through such entities are encouraged to consult with their own tax advisors regarding the possible implications of these rules for their investment in our common stock.



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### **Distributions**

As indicated in the **Dividend Policy** section of this prospectus, we have never declared or paid cash dividends on our common stock and we currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any cash dividends in the foreseeable future.

In the event that we do make a distribution, subject to the discussion below, distributions made on our common stock to a Non-U.S. Holder to the extent made out of our current or accumulated earnings and profits (as determined under U.S. federal income tax principles) generally will constitute dividends for U.S. tax purposes and will be subject to withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. To obtain a reduced rate of withholding under a treaty, a Non-U.S. Holder generally must provide us with a properly executed applicable IRS Form W-8, or other appropriate form, certifying the Non-U.S. Holder's entitlement to benefits under that treaty. In the case of a Non-U.S. Holder that is an entity, Treasury Regulations and the relevant tax treaty provide rules to determine whether, for purposes of determining the applicability of a tax treaty, dividends will be treated as paid to the entity or to those holding an interest in that entity. If a Non-U.S. Holder holds stock through a financial institution or other agent acting on the holder's behalf, the holder will be required to provide appropriate documentation to such agent. The holder's agent will then be required to provide certification to us or our paying agent, either directly or through other intermediaries. If a Non-U.S. Holder is eligible for a reduced rate of U.S. federal withholding tax under an income tax treaty, such Non-U.S. Holder may be able to obtain a refund or credit of any excess amounts withheld by timely filing an appropriate claim with the IRS.

We generally are not required to withhold tax on dividends paid to a Non-U.S. Holder that are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment that such holder maintains in the United States) if a properly executed IRS Form W-8ECI, stating that the dividends are so connected, is furnished to us (or, if stock is held through a financial institution or other agent, to such agent). In general, such effectively connected dividends will be subject to U.S. federal income tax, on a net income basis at the regular graduated rates. A corporate Non-U.S. Holder receiving effectively connected dividends may also be subject to an additional branch profits tax, which is imposed, under certain circumstances, at a rate of 30% (or such lower rate as may be specified by an applicable treaty) on the corporate Non-U.S. Holder's effectively connected earnings and profits, subject to certain adjustments.

To the extent distributions on our common stock, if any, exceed our current and accumulated earnings and profits, they will first reduce a Non-U.S. Holder's adjusted basis in our common stock, but not below zero, and then will be treated as gain to the extent of any excess, and taxed in the same manner as gain realized from a sale or other disposition of common stock as described in the next section.

### **Gain on Disposition of Our Common Stock**

Subject to the discussion below regarding backup withholding and foreign accounts, a Non-U.S. Holder generally will not be subject to U.S. federal income tax with respect to gain realized on a sale or other disposition of our common stock unless (a) the gain is effectively connected with a trade or business of such holder in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment that such holder maintains in the United States), (b) the Non-U.S. Holder is a nonresident alien individual and is present in the United States for 183 or more days in the taxable year of the disposition and certain other conditions are met, or (c) we are or have been a United States real property holding corporation within the meaning of Code Section 897(c)(2) at any time within the shorter of the five-year period preceding such disposition or such holder's holding period. In general, we would be a United States real property holding corporation if interests in U.S. real estate comprised (by fair market value) at least half of our business assets. We believe that we are not, and do not anticipate becoming, a United States real property

holding corporation. Even if we are treated as a United States real property holding corporation, gain realized by a Non-U.S. Holder on a

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disposition of our common stock will not be subject to U.S. federal income tax so long as (1) the Non-U.S. Holder owned, directly, indirectly and constructively, no more than five percent of our common stock at all times within the shorter of (i) the five-year period preceding the disposition or (ii) the holder's holding period and (2) our common stock is regularly traded on an established securities market. There can be no assurance that our common stock will, or will continue to, qualify as regularly traded on an established securities market.

A Non-U.S. Holder described in (a) above, will generally be required to pay tax on the net gain derived from the sale at regular graduated U.S. federal income tax rates, and corporate Non-U.S. Holders described in (a) above may be subject to the additional branch profits tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. An individual Non-U.S. Holder described in (b) above, will be required to pay a flat 30% tax on the gain derived from the sale, which gain may be offset by U.S. source capital losses (even though the individual is not considered a resident of the United States).

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

Generally, we must report information to the IRS with respect to any dividends we pay on our common stock including the amount of any such dividends, the name and address of the recipient, and the amount, if any, of tax withheld. A similar report is sent to the holder to whom any such dividends are paid. Pursuant to tax treaties or certain other agreements, the IRS may make its reports available to tax authorities in the recipient's country of residence.

Dividends paid by us (or our paying agents) to a Non-U.S. Holder may also be subject to U.S. backup withholding. U.S. backup withholding generally will not apply to a Non-U.S. Holder who provides a properly executed applicable IRS Form W-8 (and the payor does not have actual knowledge or reason to know that such holder is a U.S. person) or otherwise establishes an exemption.

Under current U.S. federal income tax law, U.S. information reporting and backup withholding requirements generally will apply to the proceeds of a disposition of our common stock effected by or through a U.S. office of any broker, U.S. or foreign, except that information reporting and such requirements may be avoided if the holder provides a properly executed applicable IRS Form W-8 applicable or otherwise meets documentary evidence requirements for establishing Non-U.S. Holder status or otherwise establishes an exemption. Generally, U.S. information reporting and backup withholding requirements will not apply to a payment of disposition proceeds to a Non-U.S. Holder where the transaction is effected outside the United States through a non-U.S. office of a non-U.S. broker. Information reporting and backup withholding requirements may, however, apply to a payment of disposition proceeds if the broker has actual knowledge, or reason to know, that the holder is, in fact, a U.S. person. For information reporting purposes, certain brokers with substantial U.S. ownership or operations will generally be treated in a manner similar to U.S. brokers.

Backup withholding is not an additional tax. Any amounts of tax withheld under the backup withholding rules may be allowed as a refund or credits against the tax liability of persons subject to backup withholding, provided that the required information is timely furnished to the IRS.

## **Additional Withholding and Reporting Requirements**

A U.S. federal withholding tax of 30% may apply on dividends and the gross proceeds of a disposition of our common stock paid to a foreign financial institution (as specifically defined by applicable rules) unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which includes certain equity holders of such institution, as well