

KEYW HOLDING CORP  
Form 424B5  
July 15, 2014

**Filed pursuant to Rule 424(b)(5)  
Registration File No. 333-195458**

The information in this preliminary prospectus supplement and the accompanying prospectus is not complete and may be changed. A registration statement relating to the notes has become effective under the Securities Act of 1933, as amended. This preliminary prospectus supplement is not an offer to sell the notes and it is not soliciting an offer to buy the notes in any jurisdiction where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED JULY 15, 2014**

**PRELIMINARY PROSPECTUS SUPPLEMENT  
(To prospectus dated May 14, 2014)**

**\$125,000,000**

**THE KEYW HOLDING CORPORATION**

**% Convertible Senior Notes due 2019**

We are offering \$125,000,000 principal amount of our % Convertible Senior Notes due 2019 (the notes ). The notes will bear interest at a rate of % per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on January 15, 2015. The notes will mature on July 15, 2019.

Holders may convert their notes at their option at any time prior to the close of business on the business day immediately preceding January 15, 2019 only under the following circumstances: (1) during any calendar quarter (and only during such calendar quarter) commencing after the calendar quarter ending on September 30, 2014, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (2) during the five business day period after any five consecutive trading day period (the measurement period ) in which the trading price (as defined below) per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day; (3) upon the occurrence of specified corporate events; or (4) following our delivery of a notice of the spin-off of our subsidiary, Hexis Cyber Solutions, Inc. (as more fully described in this prospectus supplement, the Hexis spin-off ). On or after January 15, 2019 until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their notes at any time, regardless of the foregoing circumstances. Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, as described in this prospectus supplement.

The conversion rate will initially be \_\_\_\_\_ shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$ \_\_\_\_\_ per share of common stock). The conversion rate will be subject to adjustment in some events but will not be adjusted for any accrued and unpaid interest. In addition, following certain corporate events that occur prior to the maturity date or following our delivery of a notice of the Hexis spin-off, we will increase the conversion rate for a holder who elects to convert its notes in connection with such a corporate event or such spin-off, as the case may be, in certain circumstances.

We may not redeem the notes prior to the maturity date, and no sinking fund is provided for the notes.

If we undergo a fundamental change, holders may require us to repurchase for cash all or any portion of their notes at a fundamental change repurchase price equal to 100% of the principal amount of the notes to be repurchased, *plus* accrued and unpaid interest to, but excluding, the fundamental change repurchase date.

The notes will be our senior unsecured obligations and will rank senior in right of payment to any of our indebtedness that is expressly subordinated in right of payment to the notes; equal in right of payment to any of our unsecured indebtedness that is not so subordinated; effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries.

We do not intend to apply to list the notes on any securities exchange or any automated dealer quotation system. Our common stock is listed on The NASDAQ Global Select Market under the symbol KEYW. The last reported sale price of our common stock on The NASDAQ Global Select Market on July 14, 2014 was \$12.73 per share.

**Investing in the notes involves a high degree of risk. See Risk Factors beginning on page S-15 of this prospectus supplement.**

	Per Note	Total
Public offering price <sup>(1)</sup>	\$	\$
Underwriting discounts and commissions <sup>(2)</sup>	\$	\$
Proceeds, before expenses, to us	\$	\$

(1) \_\_\_\_\_ Plus accrued interest, if any, from July \_\_\_\_\_, 2014.

(2) We have agreed to reimburse the underwriters for certain FINRA-related expenses. See Underwriting (Conflicts of Interest).

We have granted the underwriters the right to purchase, exercisable within a 30-day period, up to an additional \$18,750,000 principal amount of notes, solely to cover over-allotments.

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

We expect that delivery of the notes will be made to investors in book-entry form through The Depository Trust Company on or about July \_\_\_\_\_, 2014.

***Joint Book-Running Managers***

**RBC Capital Markets**      **BofA Merrill Lynch**

*Co-Manager*

**SunTrust Robinson Humphrey**

July , 2014

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TABLE OF CONTENTS

## TABLE OF CONTENTS

### Prospectus Supplement

	Page
<u>About This Prospectus Supplement</u>	<u>S-ii</u>
<u>Forward-Looking Statements</u>	<u>S-iii</u>
<u>Prospectus Supplement Summary</u>	<u>S-1</u>
<u>Risk Factors</u>	<u>S-15</u>
<u>Use of Proceeds</u>	<u>S-39</u>
<u>Ratio of Earnings to Fixed Charges</u>	<u>S-40</u>
<u>Capitalization</u>	<u>S-41</u>
<u>Price Range of Common Stock and Dividends</u>	<u>S-43</u>
<u>Description of Notes</u>	<u>S-44</u>
<u>Description of Capped Call Transactions</u>	<u>S-74</u>
<u>Description of Other Indebtedness</u>	<u>S-75</u>
<u>Underwriting (Conflicts of Interest)</u>	<u>S-76</u>
<u>Material U.S. Federal Income and Estate Tax Considerations</u>	<u>S-84</u>
<u>Legal Matters</u>	<u>S-90</u>
<u>Experts</u>	<u>S-90</u>
<u>Where You Can Find More Information</u>	<u>S-90</u>

### Prospectus

	Page
<u>About This Prospectus</u>	<u>1</u>
<u>Where You Can Find More Information</u>	<u>1</u>
<u>Note on Forward-Looking Statements</u>	<u>2</u>
<u>The Company</u>	<u>2</u>
<u>Risk Factors</u>	<u>4</u>
<u>Use of Proceeds</u>	<u>4</u>
<u>Ratio of Earnings to Fixed Charges</u>	<u>4</u>
<u>Description of Capital Stock</u>	<u>5</u>
<u>Description of Warrants</u>	<u>10</u>
<u>Description of Debt Securities</u>	<u>11</u>
<u>Description of Units</u>	<u>17</u>
<u>Legal Ownership of Securities</u>	<u>18</u>
<u>Plan of Distribution</u>	<u>21</u>
<u>Legal Matters</u>	<u>23</u>
<u>Experts</u>	<u>23</u>



TABLE OF CONTENTS

## **ABOUT THIS PROSPECTUS SUPPLEMENT**

We and the underwriters have not authorized any person to provide you with any information other than the information contained in or incorporated by reference in this prospectus supplement, the accompanying prospectus and any related free writing prospectus we provide to you that is required to be filed with the Securities and Exchange Commission, or the SEC. We and the underwriters take no responsibility for, and provide no assurance as to the reliability of, any other information that others may give to you. We are not, and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus supplement, the accompanying prospectus, the documents incorporated by reference in this prospectus supplement and the accompanying prospectus, and in any free writing prospectus that we have authorized for use in connection with this offering, is accurate only as of the date of those respective documents. Our business, financial condition, results of operations and prospects may have changed since those dates. You should read this prospectus supplement, the accompanying prospectus, the documents incorporated by reference in this prospectus supplement and the accompanying prospectus, and any free writing prospectus that we have authorized for use in connection with this offering, in their entirety before making an investment decision. You should also read and consider the information in the documents to which we have referred you in the sections of this prospectus supplement entitled **Where You Can Find More Information**.

This document is in two parts. The first part is the prospectus supplement, which describes the specific terms of the notes being offered by us, and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference. The second part, the accompanying prospectus, including the documents incorporated by reference, provides more general information, some of which may not apply to this offering of notes. Generally, when we refer to this prospectus, we are referring to both parts of this document combined. To the extent there is a conflict between the information contained in this prospectus supplement, on the one hand, and the information contained in the accompanying prospectus or in any document incorporated by reference that was filed with the SEC, before the date of this prospectus supplement, on the other hand, you should rely on the information in this prospectus supplement. If any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference in the accompanying prospectus—the statement in the document having the later date modifies or supersedes the earlier statement.

S-ii

---

TABLE OF CONTENTS

## **FORWARD-LOOKING STATEMENTS**

When used in this prospectus supplement, the terms KEYW, the Company and we, us and our refer to The KEYW Holding Corporation, a Maryland corporation, and its subsidiaries. However, for purposes of the sections entitled The Offering or Description of Notes included in this prospectus supplement, references to the Company, we, us and our refer only to The KEYW Holding Corporation and do not include our subsidiaries.

The matters discussed in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein may constitute forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. In some cases, you can identify these statements by forward-looking words such as could, expect, estimate, may, potential, will, and would, or similar words. These statements involve known and unknown risks, uncertainties, and other factors that may cause our actual results, activity levels, performance or achievements to be materially different from any future results, activity levels, performance or achievements expressed or implied by such forward-looking statements. You should read statements that contain these words carefully because they discuss our future expectations, contain projections of our future results of operations or of our financial position, or state other forward-looking information. There may be events in the future that we are not able to predict or control accurately, and numerous factors may cause events, our results of operations, financial performance, achievements, or industry performance, to differ materially from those reflected in the forward-looking statements.

Forward-looking statements included in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein include, but are not limited to, the following:

- that today's complex, geographically distributed cyber threat environment is driving a convergence of cyber intelligence and geospatial intelligence;
- that the Department of Defense is expected to continue to work with domestic and international allies and partners and invest in advanced capabilities to defend its networks, operational capability, and resiliency in cyberspace and space;
- that we are strongly positioned, based on our capabilities, competitive strengths and strategy, to be a leader in this well funded and critical market;
- that our competitive strengths will allow us to take advantage of trends in our industry;
- that we intend to leverage our high technology capabilities and services, products and solutions to further penetrate the intelligence and defense communities and to expand our participation in other cyber and geospatial intelligence growth areas of the U.S. Government in the homeland security and civilian sectors;
- that we will be able to apply powerful cyber superiority solutions to the .gov community in a manner that is transparent and respectful of privacy in the civilian and commercial environments;
- that we will continue to pursue selective strategic acquisitions that expand our cyber intelligence platform of capabilities and solutions;
- that we intend to continue utilizing company and customer funded research and development to develop technologies, products and solutions that have significant potential for near-term, as well as long-term value in both the U.S. Government and commercial markets; and
- that we will continue to use intellectual property that we create internally or license from other companies in the areas of network traffic intelligence, cyber security, cyber intelligence and geospatial intelligence to build products and solutions to further penetrate the intelligence and defense market for cyber superiority.

S-iii

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TABLE OF CONTENTS

The most important factors that could prevent us from achieving our goals, and cause the assumptions underlying forward-looking statements and the actual results to differ materially from those expressed in or implied by those forward-looking statements include, but are not limited to, the following:

- changes in our reputation and relationship with the U.S. Government and its agencies;
  - changes in U.S. Government spending and its mission priorities;
  - delays in the completion of the U.S. Government's budget process and the impact of sequestration;
  - our ability to realize the full amounts reflected in our backlog as revenue;
  - our ability to comply with laws and regulations relating to the formation, administration and performance of federal government contracts;
  - the risks associated with provisions, laws and regulations that permit the U.S. Government to reduce or modify contracts or subcontracts, cancel multi-year contracts and related orders, claim certain rights and suspend or debar us from doing business with the U.S. Government;
  - changes in the U.S. Government's procurement practices and/or contracting rules and regulations;
  - the risk associated with adverse findings in a Defense Contract Audit Agency (DCAA) audit;
  - the effects of a loss of any one of more of our key programs;
  - the risks associated with the competitive bidding process;
  - the risks associated with overseas operations, including liabilities relating to an accident or incident involving our employees or third parties;
  - our risk of loss not covered by insurance;
  - the effects of intense competition in the markets in which we operate;
  - our lack of long term historical financial results as an operating entity;
  - our ability to successfully acquire businesses and integrate those businesses into our operations;
  - our ability to manage our growth;
  - our ability to obtain additional capital;
  - our ability to meet the financial and operating covenants contained in our credit facility;
  - our ability to protect and enforce our intellectual property rights;
  - our ability to obtain and renew certain third-party licenses;
  - our ability to obtain market acceptance for our new products and enhancements;
  - the risks associated with cyber security attacks;
  - our ability to attract, train and retain senior management and skilled employees;
  - our ability to obtain and maintain required security clearances;
  - the risks associated with employee misconduct, fraud and other improper activities; and
- the risk factors included in this prospectus supplement under the section captioned "Risk Factors" and included in our filings with the SEC that are incorporated herein by reference, especially on Forms 10-K, 10-Q and 8-K.
- You should not place undue reliance on these forward-looking statements, which apply only as of the date of this prospectus supplement. Subsequent events and developments may cause our views to change. While we may elect to update the forward-looking statements at some point in the future, we specifically disclaim any obligation to do so.

S-iv

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TABLE OF CONTENTS

## PROSPECTUS SUPPLEMENT SUMMARY

*This summary highlights selected information about us, this offering and information appearing elsewhere in this prospectus supplement, in the accompanying base prospectus and in the documents we incorporate by reference. This summary is not complete and does not contain all the information that you should consider before deciding whether to invest in our common stock. You should read this entire prospectus supplement and the accompanying prospectus, together with the information incorporated by reference, including the financial data and related notes, before making an investment decision. You should read *Risk Factors* beginning on page S-15 of this prospectus supplement and on page 4 of the accompanying prospectus for more information about important risks that you should consider before buying the notes to be issued in this offering.*

## ABOUT KEYW

### General Overview

KEYW is a highly specialized provider of mission-critical cybersecurity, cyber superiority and geospatial intelligence solutions to U.S. Government defense, intelligence and national security agencies and commercial enterprises. Our core capabilities include solutions, services and products to support the collection, processing, analysis and use of intelligence data and information in the domains of cyberspace and geospace. Our solutions are designed to respond to meet the critical needs for agile intelligence in the cyber age and to assist the U.S. Government in national security priorities.

We provide a full range of engineering services, cyber security and analytic products, and fully integrated platforms that support the entire intelligence process, including collection, processing, analysis and impact. Our platforms include a number of modified commercial turboprop aircraft for imagery and light detection and ranging (LIDAR), collection, products that we manufacture, as well as hardware and software that we integrate using the engineering services of our highly skilled and security-cleared workforce.

Our engineering services solutions are focused on Intelligence Community customers including the National Security Agency (NSA), the National Reconnaissance Office (NRO), the National Geospatial Intelligence Agency (NGA), the Army Geospatial Center (AGC) and various other agencies within the Intelligence Community and Department of Defense (DoD). In addition, we provide our products and services to U.S. federal, state and local law enforcement agencies and commercial enterprises. Our innovative solutions, understanding of intelligence and national security missions, management's long-standing and successful customer relationships and operational capabilities, and best-in-class employee base position us to continue our growth as we expand into the cybersecurity market. We are highly focused on assisting our customers in achieving their mission of cyber superiority both defensively and offensively within the entire domain of cyberspace and doing so in time to observe, respond to and where possible prevent threat events, actions and agents from inflicting harm. Additionally, over the past three years, we have expanded our solutions to encompass a broad spectrum of geospatial intelligence, or GEOINT, capabilities. We believe today's complex, geographically distributed cyber threat environment is driving a convergence of cyber intelligence and geospatial intelligence.

Our primary areas of expertise include:

providing sophisticated engineering services and solutions that help our customers solve discreet and complex cybersecurity, cyber superiority, and geospatial and other intelligence challenges;

using multiple intelligence collection techniques to collect data and information in cyberspace, encompassing the entire electromagnetic spectrum;  
processing data and information from cyberspace to make it accessible to a wide range of analytical needs and resources;  
analyzing data and information that have been collected, processed, correlated, and made easily accessible to transform them into usable information for our customers;  
developing next generation cyber defense and security incident response platforms designed to detect, investigate and remove advanced cyber threats from enterprise information technology networks;

S-1

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## TABLE OF CONTENTS

developing data warehousing and business intelligence solutions to address the most advanced use cases in Security Information and Event Management, log management, and Call Detail Record (CDR) retention and retrieval; providing specialized training, field support, and test and evaluation services; development, integration, rapid deployment and sustainment of agile airborne intelligence, surveillance, and reconnaissance collection platforms to austere environments; and responding quickly and decisively to demanding and emergent customer requirements, with agile processes and methods that enable us to satisfy requirements that are constantly changing to meet an agile, aggressive and ever-changing threat environment.

As of March 31, 2014, we had 1,081 employees. Of these employees, 79% hold U.S. Government security clearances and 75% hold Top Secret or higher clearance.

We currently derive substantially all of our revenue from U.S. Government customers; acting as both prime contractor and subcontractor on U.S. Government contracts. The majority of our contracts provide for a total contract period of five years, with an initial contract period of one year and the balance in one-year option periods.

In July 2013, we began operations of our wholly-owned subsidiary, Hexis Cyber Solutions, Inc., or Hexis, and introduced the HawkEye family of products and services. Hexis is comprised of our Project G organization and Sensage, Inc., which we acquired in October 2012. On October 8, 2013, we and Hexis announced commercial availability of HawkEye G, our flagship product that is designed to quickly detect advanced cyber threats, automatically apply countermeasures and remove the threats from the network. Hexis also markets HawkEye AP, a high performance event data warehouse and analytics platform for applications including log management, call detail record/internet protocol data record management and risk and compliance applications.

We continue to make progress in our HawkEye G business development metrics with 13 deployed systems and a HawkEye G pilot pipeline of 35 different organizations spanning the government, healthcare, financial services, energy, and technology industries.

## **Our Market Opportunity**

### Cyberspace

Our market opportunity is defined by the pervasive expanse of cyberspace and the urgent need for the United States to achieve cyber superiority and mastery over this domain. In a document entitled the National Military Strategy for Cyberspace Operations, the DoD officially defined cyberspace as a domain characterized by the use of electronics and the electromagnetic spectrum to store, modify, and exchange data via networked systems and associated physical infrastructures.

The national security of the U.S., our economic prosperity, and the daily functioning of our government are dependent on a dynamic public and private information infrastructure, which includes telecommunications, computer networks and systems, and the information residing within. In the past five years, the U.S. has seen a dramatic increase in malicious cyber activity targeting U.S. computers and networks; almost two-thirds of U.S. firms report that they have been the victim of cybersecurity incidents or information breaches, while the volume of malicious software, or malware, on American networks more than tripled from 2009. In addition, the emergence of foreign military capabilities in cyber space continues. This formalization of military cyber capabilities creates another tool that foreign leaders may use to undermine critical infrastructures that were previously assumed secure. In addition to its own capabilities, the Intelligence Community is cooperating with the private sector to ensure current and evolving understanding of the dynamic cyber environment. The Intelligence Community is integrating cybersecurity with

counterintelligence and improving its ability to understand, detect, attribute, and counter the full range of threats.

The market opportunity for cyber superiority and cybersecurity has continued to evolve since then Defense Secretary Gates directed the establishment of U.S. Cyber Command, a military command focused on cybersecurity, to be based at Fort Meade, Maryland, which also houses the National Security Agency. The

S-2

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## TABLE OF CONTENTS

Cyber Command supports three overlapping categories of cyber operations, protection of defense computer networks, coordination of all defense computer operations and provision of full-spectrum support for all military and counterterrorism missions.

The DoD directive put the National Security Agency and Cyber Command, both at Fort Meade, Maryland and near our headquarters, at the center of U.S. strategy for cyber superiority and cybersecurity. Modern armed forces cannot conduct high-tempo, effective operations without reliable information and communication networks and assured access to cyberspace and geospatial intelligence. Our leadership and the strategic assembly of companies and capabilities involved with these customers and programs have been carefully developed as a continuing response to the ever growing threat the United States faces from potential cyber attacks. The DoD is expected to continue to work with domestic and international allies and partners and invest in advanced capabilities to defend its networks, operational capability, and resiliency in cyberspace and space.

A key element of the strategy of the Director of National Intelligence (DNI), and an important element that helps define this market opportunity, is the need for agility. Agility was identified by the DNI as one of the characteristics essential to the Intelligence Community's effectiveness. The DNI defined an agile organization as an enterprise with an adaptive, diverse, continually learning, and mission-driven intelligence workforce that embraces innovation and takes initiative. In addition, the National Intelligence Strategy identified enhancing cybersecurity as one of six mission objectives that must be accomplished by the Intelligence Community. The DNI, in his Vision 2015 document, put forward a strategy for shifting the focus and operation of the Intelligence Community towards cyber age operations.

The strategy challenged the Intelligence Community to adopt modern business practices that will make it more effective, efficient, nimble, and accountable.

For national security reasons, there is limited detailed information published on intelligence spending or the amount of intelligence spending dedicated for cyber warfare. The DNI disclosed that the 2011 National Intelligence Program Budget was \$54.6 billion and the Military Intelligence Budget was \$24 billion, for a combined Intelligence Budget of \$78.6 billion. According to a recent study by Market Research Ltd., U.S. Federal Cybersecurity spending is expected to reach a cumulative market value of \$65.5 billion for the period 2013 – 2018, with this market growing steadily at an estimated annual growth rate of 6.2% over the next six years. Driving this growth is the continued sharp increase in cyber threats and increased reliance on the internet, networked systems and connectivity, which creates opportunities for cyber attackers to disrupt U.S. Government operations, as well as infrastructure and commercial entities that are critical to the United States.

As a result of these decisions and actions, our customers have clearly defined agility, cyber superiority and cybersecurity as critical national security imperatives. We believe that we are strongly positioned, based on our capabilities, competitive strengths and strategy, to be a leader in this well funded and critical market.

### Geospace

Since our initial public offering, we have significantly expanded our capabilities in geospatial intelligence. These capabilities are highly complementary to our cyber superiority capabilities. Geospatial intelligence tools and technologies for managing and correlating vast amounts of data, all within a common geo-reference model, are highly relevant and leverageable in cyberspace. In addition, the domains of cyberspace and geospace are rapidly converging within the intelligence and defense communities. Attribution and effective remediation of hostile actions in cyberspace frequently requires finding the perpetrators in geospace, and correlating other knowledge that is accessible using geospatial intelligence tools and data.

### Cybersecurity Spending

According to a June 2012 market research report by Markets and Markets, global cybersecurity spending in 2011 was \$63.7 billion and is expected to grow to \$120 billion by 2017, an estimated annual growth rate of 11.3%.

S-3

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## TABLE OF CONTENTS

The main drivers of the cybersecurity market are:

the large base of existing cyber threats in addition to increasing cyber threats from new actors and new threat vectors (the paths that attacks can take);

a regulatory environment increasingly requiring processes and procedures to ensure robust systems are in place to protect data;

increased vulnerability to cyber threats due to increasing dependence on technology, in particular, mobile, cloud computing and web centric technologies; and

adversaries focused on exploiting increased dependence on technology-driven infrastructure through cyber attacks.

This growth in the cybersecurity market is being driven by the increasing frequency and ferocity of cyber threats. According to former Deputy Secretary of Defense William Lynn, speaking at the 28<sup>th</sup> Annual International Workshop on Global Security in Paris, the recent intrusions at the International Monetary Fund, the U.S. defense contractor Lockheed Martin, and at Citibank join those that occurred in the oil and gas sector, at NASDAQ, and at Google as further, troubling instances of a widespread and serious phenomenon. Even some companies employing sophisticated commercial defenses have fallen victim to intrusions that have compromised services and stolen intellectual property. General Keith Alexander, Director of the National Security Agency and head of U.S. Cyber Command, stated in July 2012 at the American Enterprise Institute that cyber attacks are causing the greatest transfer of wealth in history.

General Alexander cited a report from Symantec that concludes that the theft of intellectual property inflicts significant annual costs on American companies.

In a June 2011 survey of 583 companies conducted by the Ponemon Institute, 90% of the respondents said that their organizations' computers had been breached at least once by hackers over the past 12 months. The same report indicated that the financial loss for 41% of the respondents was \$500,000 or more, with another 16% indicating that they were unable to determine the amount of the loss. In an analysis prepared by Mandiant for its M-Trends 2013 report, it was reported that 37% of the companies breached had been able to identify the compromise themselves; 63% learned of the problem from third parties. Mandiant also reported that the median length of these compromises was 243 days. In our opinion, these statistics, when viewed together, are producing a demand for next generation solutions that are able to see anomalous, and potentially hostile activity within an enterprise's networks and respond decisively and in a timely manner to find, fix and finish cyber threats before they produce material damage and loss to the finances, reputation and trust of the enterprise.

## **Our Competitive Strengths**

We believe the following competitive strengths will allow us to take advantage of the trends in our industry:

*Cyber superiority, geospatial intelligence and intelligence focused.* We are a company that is focused on delivering cyber superiority, geospatial intelligence and intelligence support for our customers. We accomplish this by delivering a full range of cyber engineering services and solutions, geospatial intelligence services and solutions, and cyber intelligence products. Mastering cyberspace and thereby attaining cyber superiority is a core mission of the Intelligence Community. We are building a platform of capabilities, culture and technologies that is tailored to meeting this mission. This focus gives our customers faster and more innovative solutions than those offered by our competitors.

*Agile intelligence, cybersecurity and cyber age operations expertise.* We have significant experience in building signal and information processing solutions, cybersecurity, cyber superiority and geospatial intelligence solutions, using agile methodologies for the Intelligence Community to support mission critical activities and complex national security problems. Our team has established a strong reputation for responding quickly to customer requirements, and

working as a partner with our customers to identify and define these requirements. The changes in the threat environment that have occurred since 2001 have put enormous

S-4

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TABLE OF CONTENTS

pressure on the Intelligence Community to respond more quickly and in a more integrated way than ever before. We have a culture of innovation and agility that allows us to respond more quickly and with greater impact than other organizations.

*Management's Intelligence Community experience and relationships.* Our management has significant expertise in the Intelligence Community and a lengthy track record with many members of the Intelligence Community. Our insight into the Intelligence Community's needs and our mission focus allow us to articulate and support our customers' needs as they emerge, placing us at the forefront of solutions being offered. The senior members of our leadership and technology teams have a record of supporting the Intelligence Community's programs for the past 20-30 years. Our long-term relationships establish the basis of trust required to understand and support mission-critical requirements.

During this period, our executives have gained access to the highest levels of the Intelligence Community and provided thought leadership in the transformation of the intelligence process to respond to challenges of cyber age operations and a rapidly changing asymmetrical global threat environment.

*Expansion into commercial sector provides new opportunity for growth.* Launched during July 2013, Hexis offers an innovative purpose built solution enabling enterprises to protect themselves from the next generation of cyber attacks. This next generation of cyber attacks on organizations represents a significant escalation in the scale and complexity of malware created by criminal organizations and nation-states. We have utilized our experience in protecting the U.S. government's most secure networks to build a cyber security platform. Such attacks are able to work around and through traditional defenses and deliver malware through multiple entry points of an enterprise network. Our solution represents a new approach to detecting and eliminating these cyber attacks in real time. In light of the ever changing landscape of cyber attacks, we believe organizations need to invest in this new approach to security in order to protect their critical assets.

*History of successfully acquiring and integrating businesses.* We began operations on August 4, 2008 led by the majority of the former leadership team of Essex Corporation, which was acquired by Northrop Grumman Corporation in January 2007. Since our founding, we have assembled, through a series of highly selective strategic acquisitions, a single distinct platform that provides the high quality and complementary cybersecurity, cyber superiority and geospatial intelligence capabilities, solutions and products our customers require. Since inception, we have completed 18 acquisitions.

*Skilled employees with high-level security clearances.* As of March 31, 2014, 79% of our employees have U.S. Government security clearances, with 75% of our employees holding Top Secret or higher clearance. This concentration of highly-skilled and cleared personnel allows us to respond quickly to customer requirements and gives us on-going insight into our customers' toughest national security problems. The requirement for these clearances and the time and process required to attain them are significant barriers to entering this market.

*Intelligence Surveillance and Reconnaissance (ISR) sensor development, rapid deployment and sustainment of airborne collection platforms.* Leveraging our broad technical expertise, we match aircraft to mission requirements and modify these aircraft with integrated airborne sensor systems for onboard, geospatially referenced digital image collection and processing. Our integrated airborne collection solutions are complemented by complete flight services and ongoing sustainment and logistics support of the collection platforms. We rapidly deploy our tailored solutions in direct response to the defense community's most urgent requirements for ISR imagery in support of tactical missions and rapid mapping of large areas in some of the world's most challenging locations, thus placing us at the center of the trend towards actionable intelligence.

## Our Strategy

Our objective is to continue to grow our business as a provider of advanced solutions, including services, products, and fully integrated platforms, to provide cyber and geospatial intelligence to U.S. Government customers and to leverage our capabilities and innovations in this field to government intelligence, defense, civilian customers and the commercial market. Key elements of our strategy to accomplish our continued growth objective include:

*Leveraging our distinct culture, which we describe as Agile DNA, products and solutions to expand our U.S. Government business. We intend to leverage our high technology capabilities and services, products*

S-5

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## TABLE OF CONTENTS

and solutions to further penetrate the intelligence and defense communities and to expand our participation in other cyber and geospatial intelligence growth areas of the U.S. Government in the homeland security and civilian sectors. We believe this will allow us to apply powerful cyber superiority solutions to the .gov community in a manner that is transparent and respectful of privacy in the civilian and commercial environments.

*Pursuing strategic, capability-enhancing acquisitions.* We will continue to pursue selective strategic acquisitions that expand our cyber intelligence platform of capabilities and solutions. This will include companies that are leaders in supporting the U.S. intelligence and defense community, as well as technologies and solutions in cybersecurity and other areas of innovation that are critical to (1) the transformation of the Intelligence Community into cyber age operations and (2) improving the overall cybersecurity posture of the Intelligence Community and commercial critical infrastructure enterprises.

*Building and leveraging our research and development efforts.* We intend to continue utilizing company and customer funded research and development to develop technologies, products and solutions that have significant potential for near-term, as well as long-term value in both the U.S. Government and commercial markets. We will continue to use intellectual property that we create internally or license from other companies in the areas of network traffic intelligence, cybersecurity, cyber intelligence and geospatial intelligence to build products and solutions to further penetrate the intelligence and defense market for cyber superiority.

*Leverage Intelligence Community experience to address new growth markets.* We are applying knowledge and techniques that we have developed and used to protect some of the most sensitive Intelligence Community networks to derive a new Cyber Awareness and Response Platform for the commercial market place, with an initial focus on U.S. critical infrastructure industries. By drawing on the excellent skills of our cyber experts, with years of experience in protecting the Intelligence Community from continuous cyber attacks, we are deploying a platform capable of finding, fixing, and finishing even the most elusive and persistent cyber threats.

## **Recent Developments**

### Preliminary Unaudited Selected Financial Data for the Second Quarter of Fiscal Year 2014

The preliminary financial data discussed below has been prepared by, and is the responsibility of, our management and has not been audited or reviewed. Our current preliminary estimates of anticipated results discussed below are subject to the completion of our financial closing procedures, final adjustments and other developments that may arise between now and the time the financial results for the second quarter of fiscal year 2014 are finalized. Therefore, our actual results may differ materially from these estimates.

The following are our current preliminary estimates for the three month period ended June 30, 2014:

revenue of between \$72.5 million and \$74.5 million;  
net loss of between \$2.9 million and \$2.5 million; and  
adjusted EBITDA of between \$4.8 million and \$5.2 million (see below for a reconciliation of adjusted EBITDA to net loss).

We have provided a range for our current preliminary unaudited estimates of revenue, net loss and adjusted EBITDA because our financial closing procedures for the second quarter of fiscal year 2014 are not yet complete. It is possible that our final reported results may not be within the ranges we currently estimate, and the difference may be material.

We expect to complete our closing procedures for the second quarter of fiscal year 2014 later in July 2014.

Adjusted EBITDA is a financial measure that is not calculated in accordance with accounting principles generally accepted in the United States of America, or U.S. GAAP. The adjusted EBITDA reconciliation table below provides a reconciliation of this non-U.S. GAAP financial measure to net income (loss), the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP. Adjusted EBITDA should not be considered as an alternative to net income, operating income or any other measure of financial performance calculated and presented in accordance with U.S. GAAP. Our adjusted EBITDA may

S-6

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TABLE OF CONTENTS

not be comparable to similarly titled measures of other companies because other companies may not calculate adjusted EBITDA or similarly titled measures in the same manner as we do. We prepare adjusted EBITDA to eliminate the impact of items that we do not consider indicative of our core operating performance. We encourage you to evaluate these adjustments and the reasons we consider them appropriate. In addition, our board of directors and management use adjusted EBITDA:

as a measure of operating performance;  
to determine a significant portion of management's incentive compensation;  
for planning purposes, including the preparation of our annual operating budget; and  
to evaluate the effectiveness of our business strategies.

Although adjusted EBITDA is frequently used by investors and securities analysts in their evaluations of companies, adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results of operations as reported under U.S. GAAP. Some of these limitations are:

adjusted EBITDA does not reflect our cash expenditures or future requirements for capital expenditures or other contractual commitments;

adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;

adjusted EBITDA does not reflect interest expense or interest income;

adjusted EBITDA does not reflect cash requirements for income taxes;

adjusted EBITDA does not include non-cash expenses related to stock compensation;

although depreciation and amortization are non-cash charges, the assets being depreciated or amortized will often have to be replaced in the future, and adjusted EBITDA does not reflect any cash requirements for these replacements; and

other companies in our industry may calculate adjusted EBITDA or similarly titled measures differently than we do, limiting its usefulness as a comparative measure.

The following table includes a reconciliation of net loss to adjusted EBITDA based on our current preliminary high and low range estimates for the three month period ended June 30, 2014:

## Adjusted EBITDA Reconciliation

	(Unaudited in millions)	
	Three Months Ended June	
	30,	
	2014	
	Range	
	Low	High
Net Loss	\$ (2.9 )	\$ (2.5 )
EBITDA Adjustments:		
Depreciation	1.9	1.9
Intangible Amortization	2.9	2.9
Acquisition and Other Nonrecurring Costs	0.1	0.1
Stock Compensation Amortization	1.7	1.7
Interest Expense, Net	1.2	1.2
Tax Benefit	(0.1 )	(0.1 )
Adjusted EBITDA	\$ 4.8	\$ 5.2

Our current estimates of the preliminary unaudited financial data discussed above constitute forward-looking statements, as referred to in Forward-Looking Statements. These forward-looking statements are subject to a number

of risks, uncertainties and assumptions, including those described in Risk Factors in this prospectus supplement and the risk factors described in the documents incorporated by

S-7

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## TABLE OF CONTENTS

reference into this prospectus supplement We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus supplement to conform these statements to actual results or to changes in our expectations.

### Concurrent Refinancing of Existing Credit Facility

Concurrently with and conditioned upon the issuance of the notes, we expect to effect a refinancing of all of the \$85.25 million outstanding term loans and revolving loans under our existing credit facility as of March 31, 2014. We expect to refinance the outstanding term loans and revolving loans under the existing credit facility with the proceeds from the notes offered hereby. Concurrently with the issuance of the notes, we expect that our wholly-owned subsidiary, The KEYW Corporation, a Maryland corporation, will enter into a new senior secured revolving credit agreement with Royal Bank of Canada, Bank of America, SunTrust Bank (or one of their respective affiliates) and other lenders arranged by RBC Capital Markets, LLC for which Royal Bank of Canada will serve as sole administrative agent and sole collateral agent. The KEYW Corporation will receive a revolving credit commitment of up to \$42.5 million that includes a swingline loan commitment of up to \$10.0 million and a letter of credit facility of up to \$15.0 million. This offering is not conditioned upon the completion of the refinancing of our existing credit facility. See Description of Other Indebtedness.

## **Corporate Information**

The KEYW Holding Corporation, incorporated in Maryland in December 2009, is a holding company and conducts its operations through The KEYW Corporation, Hexis Cyber Solutions, Inc. and their respective subsidiaries. The KEYW Corporation was incorporated in Maryland in May 2008 and began operations on August 4, 2008. The KEYW Corporation became our wholly-owned subsidiary on December 29, 2009, as part of a corporate reorganization. In

July 2013, we began operations of Hexis, a wholly-owned subsidiary, which provides advanced cybersecurity solutions for commercial companies, government agencies and the Intelligence Community. We currently operate in two business segments Government Solutions and Commercial Cyber Solutions. Since our founding in 2008, we have completed 18 acquisitions. We completed our initial public offering in October 2010 and a secondary common stock offering in September 2012.

The address of our principal executive office is 7740 Milestone Parkway, Suite 400, Hanover, Maryland 21076, and our general telephone number is (443) 733-1600. Our common stock is listed on the Nasdaq Global Select Market under the symbol KEYW. Our web site address is [www.keywcorp.com](http://www.keywcorp.com). We make available free of charge on or through our Internet website, our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. The information on, or accessed through, our web site is not part of this prospectus supplement or any other report we file with, or furnish to, the SEC.

TABLE OF CONTENTS

## THE OFFERING

The summary below describes the principal terms of the notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The Description of Debt Securities section of the accompanying prospectus, as supplemented by the Description of Notes section of this prospectus supplement, contains a more detailed description of the terms and conditions of the notes. As used in this section, we, our, and us refer to The KEYW Holding Corporation and not to its consolidated subsidiaries.

### Issuer

The KEYW Holding Corporation, a Maryland corporation.

### Securities

\$125,000,000 principal amount of % Convertible Senior Notes due 2019 (plus up to an additional \$18,750,000 principal amount, solely to cover over-allotments).

### Maturity

July 15, 2019, unless earlier repurchased or converted.

### Interest

% per year. Interest will accrue from July , 2014 and will be payable semiannually in arrears on January 15 and July 15 of each year, beginning on January 15, 2015. We will pay additional interest, if any, at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under Description of Notes Events of Default.

### Conversion Rights

Holders may convert all or any portion of their notes, in multiples of \$1,000 principal amount, at their option at any time prior to the close of business on the business day immediately preceding January 15, 2019 only under the following circumstances:

during any calendar quarter (and only during such calendar quarter) commencing after the calendar quarter ending on September 30, 2014, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;

during the five business day period after any five consecutive trading day period (the measurement period ) in which the trading price (as defined under Description of Notes Conversion Rights Conversion upon Satisfaction of Trading Price Condition ) per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day;

upon the occurrence of specified corporate events described under Description of Notes Conversion Rights Conversion upon Specified Corporate Events ; or

S-9

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TABLE OF CONTENTS

following our delivery of a notice of the record date of the spin-off of our subsidiary, Hexis Cyber Solutions, Inc., or any successor subsidiary of ours ( Hexis ), that is prior to the maturity date of the notes (the Hexis spin-off ), as described under Description of Notes Conversion Rights Conversion upon Hexis Spin-off.

On or after January 15, 2019 until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their notes, in multiples of \$1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

The conversion rate for the notes is initially shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$ per share of common stock), subject to adjustment as described in this prospectus supplement.

Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. If we satisfy our conversion obligation solely in cash or through payment and delivery, as the case may be, of a combination of cash and shares of our common stock, the amount of cash and shares of common stock, if any, due upon conversion will be based on a daily conversion value (as described herein) calculated on a proportionate basis for each trading day in a 60 trading day observation period (as described herein). See Description of Notes Conversion Rights Settlement upon Conversion.

Following a share split or combination or a stock dividend involving our common stock, certain distributions to all or substantially all holders of our common stock, the initial public offering of Hexis (the Hexis IPO ) and certain tender or exchange offers involving our common stock, we will adjust the conversion rate as described under Description of Notes Conversion Rights Conversion Rate Adjustments.

In addition, following certain corporate events that occur prior to the maturity date or following our delivery of a notice of the record date of the Hexis spin-off, we will increase the conversion rate for a holder who elects to convert its notes in connection with such a corporate event or such spin-off, as the case may be, in certain circumstances, as described under Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off.

You will not receive any additional cash payment or additional shares representing accrued and unpaid interest, if any, upon conversion of a note, except in limited circumstances. Instead, interest will be deemed to be paid by

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TABLE OF CONTENTS

the cash, shares of our common stock or a combination of cash and shares of our common stock paid or delivered, as the case may be, to you upon conversion of a note.

**No Redemption**

We may not redeem the notes prior to the maturity date and no sinking fund is provided for the notes, which means that we are not required to redeem or retire the notes periodically.

**Fundamental Change**

If we undergo a fundamental change (as defined in this prospectus supplement under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes ), subject to certain conditions, holders may require us to repurchase for cash all or part of their notes in minimum principal amounts of \$1,000 or an integral multiple thereof. The fundamental change repurchase price will be equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date. See Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes.

**Ranking**

The notes will be our senior unsecured obligations and will rank:

senior in right of payment to any of our indebtedness that is expressly subordinated in right of payment to the notes;

equal in right of payment to any of our unsecured indebtedness that is not so subordinated;

effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and

structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries. As of March 31, 2014, our total consolidated indebtedness was \$85.25 million, all of which was secured indebtedness of our subsidiary, The KEYW Corporation, to which the notes would have been structurally subordinated. After giving effect to the issuance of the notes (assuming no exercise of the underwriters over-allotment option and no draw-down under the new revolving credit facility), the use of proceeds therefrom and the concurrent refinancing of the existing credit facility, our total consolidated indebtedness would have been \$125.0 million, consisting of the notes offered in this offering.

The indenture governing the notes does not limit the amount of debt that we or our subsidiaries may incur.

**Use of Proceeds**

We estimate that the proceeds from this offering will be approximately \$ million (or \$ million if the underwriters exercise their over-allotment option in full), after deducting fees and estimated expenses. We expect to

S-11

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TABLE OF CONTENTS

enter into capped call transactions with one or more of the underwriters or their respective affiliates (the option counterparties ). We intend to use approximately \$ million of the net proceeds from this offering to pay the cost of the capped call transactions. We intend to use the remaining net proceeds to repay the outstanding balances under our existing credit facility and for working capital, capital expenditures and other general corporate purposes, including potential acquisitions. See Use of Proceeds.

If the underwriters exercise their over-allotment option, we may use a portion of the net proceeds from the sale of the additional notes to enter into additional capped call transactions.

**Conflicts of Interest**

Affiliates of RBC Capital Markets, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are lenders under our existing credit facility and will receive at least five percent of the net proceeds from this offering when such proceeds are used to reduce or retire the balance of our existing credit facility. As a result, RBC Capital Markets, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are deemed to have a conflict of interest under FINRA Rule 5121.

Accordingly, this offering will be made in compliance with the applicable provisions of Rule 5121. Rule 5121 requires that a qualified independent underwriter meeting certain standards participate in the preparation of the registration statement and prospectus and exercise the usual standards of due diligence in respect thereto. SunTrust Robinson Humphrey, Inc. has agreed to act as a qualified independent underwriter within the meaning of Rule 5121 in connection with this offering. SunTrust Robinson Humphrey, Inc. will not receive any additional benefits for serving as a qualified independent underwriter. We have agreed to indemnify SunTrust Robinson Humphrey, Inc. from and against any and all loss, liability, claim, damage and expense whatsoever incurred as a result of its participation as a qualified independent underwriter. See Underwriting (Conflicts of Interest).

**Book-entry Form**

The notes will be issued in book-entry form and will be represented by permanent global certificates deposited with, or on behalf of, The Depository Trust Company (DTC) and registered in the name of a nominee of DTC. Beneficial interests in any of the notes will be shown on, and transfers will be effected only through, records maintained by DTC or its nominee and any such interest may not be exchanged for certificated securities, except in limited circumstances.

**Absence of a Public Market for the Notes**

The notes are new securities and there is currently no established market for the notes. Accordingly, we cannot assure you as to the development or liquidity of any market for the notes. The underwriters have advised us that they currently intend to make a market in the notes. However,

S-12

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TABLE OF CONTENTS

they are not obligated to do so, and they may discontinue any market-making with respect to the notes without notice. We do not intend to apply for a listing of the notes on any securities exchange or any automated dealer quotation system.

**U.S. Federal Income and Estate Tax Considerations**

For the U.S. federal income tax consequences of the holding, disposition and conversion of the notes, and the holding and disposition of shares of our common stock, see Material U.S. Federal Income and Estate Tax Considerations.

**Capped Call Transactions**

In connection with the pricing of the notes, we expect to enter into capped call transactions with the option counterparties. The capped call transactions are expected to reduce potential dilution to our common stock and/or offset any cash payments due in excess of the principal amount of converted notes, as the case may be, upon any conversion of notes, with such reduction and/or offset subject to a cap. If the underwriters exercise their over-allotment option, we may enter into additional capped call transactions.

In connection with establishing their initial hedge of the capped call transactions, the option counterparties and/or their respective affiliates expect to enter into various derivative transactions with respect to our common stock and/or purchase shares of our common stock concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of our common stock or the notes at that time. In addition, the option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so during any observation period related to a conversion of notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the notes, which could affect your ability to convert the notes and, to the extent the activity occurs during any observation period related to a conversion of notes, it could affect the number of shares and value of the consideration that you will receive upon conversion of the notes.

For a discussion of the potential impact of any market or other activity by the option counterparties and/or their respective affiliates in connection with the capped call transactions, see Risk Factors Risks Related to the Notes The capped call transactions may affect the value of the notes and our common stock and Underwriting (Conflicts of Interest).

S-13

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TABLE OF CONTENTS

**NASDAQ Global Select Market Symbol for Our Common Stock**

Our common stock is listed on The NASDAQ Global Select Market under the symbol KEYW.

**Trustee, Paying Agent and Conversion Agent**

Wilmington Trust, National Association.

S-14

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TABLE OF CONTENTS

## **RISK FACTORS**

An investment in the notes involves significant risks. Prior to making a decision about investing in the notes, and in consultation with your own financial and legal advisors, you should carefully consider, among other matters, the following risk factors, as well as those incorporated by reference in this prospectus supplement and the accompanying prospectus and from our Annual Report on Form 10-K under the headings Risk Factors and Management's Discussion and Analysis of Financial Condition and Results of Operations and other filings we may make from time to time with the SEC.

### **Risks Related to the Notes**

#### **The notes are effectively subordinated to our secured debt and any liabilities of our subsidiaries.**

The notes will rank:

senior in right of payment to any of our indebtedness that is expressly subordinated in right of payment to the notes;  
equal in right of payment to any of our liabilities that are not so subordinated;  
effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and  
structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries.

In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure debt ranking senior in right of payment to the notes will be available to pay obligations on the notes only after the secured debt has been repaid in full from these assets. There may not be sufficient assets remaining to pay amounts due on any or all of the notes then outstanding. The indenture governing the notes does not prohibit us from incurring additional senior debt or secured debt, nor does it prohibit any of our subsidiaries from incurring additional liabilities.

As of March 31, 2014, our total consolidated indebtedness was \$85.25 million, all of which was secured indebtedness of our subsidiary, The KEYW Corporation, to which the notes would have been structurally subordinated. After giving effect to the issuance of the notes (assuming no exercise of the underwriters' over-allotment option and no draw-down under the new revolving credit facility), the use of proceeds therefrom and the concurrent refinancing of the existing credit facility, our total consolidated indebtedness would have been \$125.0 million, consisting of the notes offered in this offering.

#### **The notes are our obligations only and our operations are conducted through, and substantially all of our consolidated assets are held by, our subsidiaries.**

The notes are our obligations exclusively and are not guaranteed by any of our operating subsidiaries. A substantial portion of our consolidated assets is held by our subsidiaries. Accordingly, our ability to service our debt, including the notes, depends on the results of operations of our subsidiaries and upon the ability of such subsidiaries to provide us with cash, whether in the form of dividends, loans or otherwise, to pay amounts due on our obligations, including the notes. Our subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to make payments on the notes or to make any funds available for that purpose. In addition, dividends, loans or other distributions to us from such subsidiaries may be subject to contractual and other restrictions and are subject to other business considerations.

**Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our substantial debt.**

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, including the notes, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling

S-15

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TABLE OF CONTENTS

assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

**Recent and future regulatory actions and other events may adversely affect the trading price and liquidity of the notes.**

We expect that many investors in, and potential purchasers of, the notes will employ, or seek to employ, a convertible arbitrage strategy with respect to the notes. Investors would typically implement such a strategy by selling short the common stock underlying the notes and dynamically adjusting their short position while continuing to hold the notes.

Investors may also implement this type of strategy by entering into swaps on our common stock in lieu of or in addition to short selling the common stock.

The SEC and other regulatory and self-regulatory authorities have implemented various rules and taken certain actions, and may in the future adopt additional rules and take other actions, that may impact those engaging in short selling activity involving equity securities (including our common stock). Such rules and actions include Rule 201 of SEC Regulation SHO, the adoption by the Financial Industry Regulatory Authority, Inc. and the national securities exchanges of a Limit Up-Limit Down program, the imposition of market-wide circuit breakers that halt trading of securities for certain periods following specific market declines, and the implementation of certain regulatory reforms required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Any governmental or regulatory action that restricts the ability of investors in, or potential purchasers of, the notes to effect short sales of our common stock, borrow our common stock or enter into swaps on our common stock could adversely affect the trading price and the liquidity of the notes.

**Volatility in the market price and trading volume of our common stock could adversely impact the trading price of the notes.**

The stock market in recent years has experienced significant price and volume fluctuations that have often been unrelated to the operating performance of companies. The market price of our common stock could fluctuate significantly for many reasons, including in response to the risks described in this section, elsewhere in this prospectus supplement or the documents we have incorporated by reference in this prospectus supplement or for reasons unrelated to our operations, such as reports by industry analysts, investor perceptions or negative announcements by our customers, competitors or suppliers regarding their own performance, as well as industry conditions and general financial, economic and political instability. A decrease in the market price of our common stock would likely adversely impact the trading price of the notes. The market price of our common stock could also be affected by possible sales of our common stock by investors who view the notes as a more attractive means of equity participation in us and by hedging or arbitrage trading activity that we expect to develop involving our common stock. This trading activity could, in turn, affect the trading price of the notes.

**Despite our current debt levels, we may still incur substantially more debt or take other actions which would intensify the risks discussed above.**

Despite our current consolidated debt levels, we and our subsidiaries may be able to incur substantial additional debt in the future, subject to the restrictions contained in our debt instruments, some of which may be secured debt. We will not be restricted under the terms of the indenture governing the notes from incurring additional debt, securing



existing or future debt, recapitalizing our debt or taking a number of other actions that are not limited by the terms of the indenture governing the notes that could have the effect of diminishing our ability to make payments on the notes when due. Our new revolving credit facility restricts our ability to incur additional indebtedness, including secured indebtedness, but if the facility matures or is repaid, we may not be subject to such restrictions under the terms of any subsequent indebtedness.

S-16

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TABLE OF CONTENTS

**We may not have the ability to raise the funds necessary to settle conversions of the notes or to repurchase the notes upon a fundamental change, and our new revolving credit facility contains limitations on our ability to pay cash upon conversion or repurchase of the notes.**

Holders of the notes will have the right to require us to repurchase their notes upon the occurrence of a fundamental change at a fundamental change repurchase price equal to 100% of the principal amount of the notes to be repurchased, *plus* accrued and unpaid interest, if any, as described under [Description of Notes](#) [Fundamental Change Permits Holders to Require Us to Repurchase Notes](#). In addition, upon conversion of the notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be required to make cash payments in respect of the notes being converted as described in under [Description of Notes](#) [Conversion Rights](#) [Settlement upon Conversion](#). However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of notes surrendered therefor or notes being converted. In addition, our ability to repurchase the notes or to pay cash upon conversions of the notes may be limited by law, by regulatory authority or by agreements governing our future indebtedness, including our new revolving credit facility. Our failure to repurchase notes at a time when the repurchase is required by the indenture or to pay any cash payable on future conversions of the notes as required by the indenture would constitute a default under the indenture. A default under the indenture or the fundamental change itself could also lead to a default under agreements governing our future indebtedness, including our new revolving credit facility. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the notes or make cash payments upon conversions thereof.

**Our new senior secured credit facility limits our ability to pay any cash amount upon the conversion of the notes.**

Our new senior secured credit facility prohibits us from making any cash payments on the conversion of the notes if a default or an event of default exists under that facility or if, after giving effect to such cash payment (and any additional indebtedness incurred to make such payments), we would not be in pro forma compliance with our financial covenants and other financial tests under that facility. See [Capitalization](#) [Description of Other Indebtedness](#) [New Credit Facility](#). Any new credit facility that we may enter into may have similar restrictions.

**The conditional conversion feature of the notes, if triggered, may adversely affect our financial condition and operating results.**

In the event the conditional conversion feature of the notes is triggered, holders of notes will be entitled to convert the notes at any time during specified periods at their option. See [Description of Notes](#) [Conversion Rights](#). If one or more holders elect to convert their notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

We may not have the ability to raise the funds necessary to settle conversions of the notes or to repurchase the notes

**The accounting method for convertible debt securities that may be settled in cash, such as the notes, is the subject of recent changes that could have a material effect on our reported financial results.**

Under Accounting Standards Codification 470-20, Debt with Conversion and Other Options, which we refer to as ASC 470-20, an entity must separately account for the liability and equity components of the convertible debt instruments (such as the notes) that may be settled entirely or partially in cash upon conversion in a manner that reflects the issuer's economic interest cost. The effect of ASC 470-20 on the accounting for the notes is that the equity component is required to be included in the additional paid-in capital section of stockholders' equity on our consolidated balance sheet, and the value of the equity component would be treated as original issue discount for purposes of accounting for the debt component of the notes. As a result, we will be required to record a greater amount of non-cash interest expense in

S-17

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TABLE OF CONTENTS

current periods presented as a result of the amortization of the discounted carrying value of the notes to their face amount over the term of the notes. We will report lower net income in our financial results because ASC 470-20 will require interest to include both the current period's amortization of the debt discount and the instrument's coupon interest, which could adversely affect our reported or future financial results, the trading price of our common stock and the trading price of the notes.

In addition, under certain circumstances, convertible debt instruments (such as the notes) that may be settled entirely or partly in cash are currently accounted for utilizing the treasury stock method, the effect of which is that the shares issuable upon conversion of the notes are not included in the calculation of diluted earnings per share except to the extent that the conversion value of the notes exceeds their principal amount. Under the treasury stock method, for diluted earnings per share purposes, the transaction is accounted for as if the number of shares of common stock that would be necessary to settle such excess, if we elected to settle such excess in shares, are issued. We cannot be sure that the accounting standards in the future will continue to permit the use of the treasury stock method. If we are unable to use the treasury stock method in accounting for the shares issuable upon conversion of the notes, then our diluted earnings per share would be adversely affected.

**Future sales of our common stock in the public market could lower the market price for our common stock and adversely impact the trading price of the notes.**

In the future, we may sell additional shares of our common stock to raise capital. In addition, a substantial number of shares of our common stock is reserved for issuance upon the exercise of stock options and upon conversion of the notes. We cannot predict the size of future issuances or the effect, if any, that they may have on the market price for our common stock. The issuance and sale of substantial amounts of common stock, or the perception that such issuances and sales may occur, could adversely affect the trading price of the notes and the market price of our common stock and impair our ability to raise capital through the sale of additional equity securities.

**Holders of notes will not be entitled to any rights with respect to our common stock, but they will be subject to all changes made with respect to them to the extent our conversion obligation includes shares of our common stock.**

Holders of notes will not be entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock) prior to the conversion date relating to such notes (if we have elected to settle the relevant conversion by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share)) or the last trading day of the relevant observation period (if we elect to pay and deliver, as the case may be, a combination of cash and shares of our common stock in respect of the relevant conversion), but holders of notes will be subject to all changes affecting our common stock. For example, if an amendment is proposed to our certificate of incorporation or bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the conversion date related to a holder's conversion of its notes (if we have elected to settle the relevant conversion by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share)) or the last trading day of the relevant observation period (if we elect to pay and deliver, as the case may be, a combination of cash and shares of our common stock in respect of the relevant conversion), such holder will not be entitled to vote on the amendment, although such holder will nevertheless be subject to any changes affecting our common stock.

**The conditional conversion feature of the notes could result in your receiving less than the value of our common stock into which the notes would otherwise be convertible.**

Prior to the close of business on the business day immediately preceding January 15, 2019, you may convert your notes only if specified conditions are met. If the specific conditions for conversion are not met, you will not be able to convert your notes, and you may not be able to receive the value of the cash, common stock or a combination of cash and common stock, as applicable, into which the notes would otherwise be convertible.

S-18

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TABLE OF CONTENTS

**Upon conversion of the notes, you may receive less valuable consideration than expected because the value of our common stock may decline after you exercise your conversion right but before we settle our conversion obligation.**

Under the notes, a converting holder will be exposed to fluctuations in the value of our common stock during the period from the date such holder surrenders notes for conversion until the date we settle our conversion obligation.

Upon conversion of the notes, we have the option to pay or deliver, as the case may be, cash, shares of our common stock, or a combination of cash and shares of our common stock. If we elect to satisfy our conversion obligation in cash or a combination of cash and shares of our common stock, the amount of consideration that you will receive upon conversion of your notes will be determined by reference to the volume-weighted average price of our common stock for each trading day in a 60 trading day observation period. As described under Description of Notes Settlement upon Conversion, this period would be (i) subject to clause (ii), if the relevant conversion date occurs prior to January 15, 2019, the 60 consecutive trading day period beginning on, and including, the second trading day immediately succeeding such conversion date; (ii) if the relevant conversion date occurs during the 10 scheduled trading day period beginning on, and including, the scheduled trading day immediately succeeding the date we deliver notice of the record date of the Hexis spin-off, the 60 consecutive trading day period beginning on, and including, the trading day immediately succeeding the final day of such 10 scheduled trading day period; and (iii) subject to clause (ii), if the relevant conversion date occurs on or after January 15, 2019, the 60 consecutive trading days beginning on, and including, the 62<sup>nd</sup> scheduled trading day immediately preceding the maturity date. Accordingly, if the price of our common stock decreases during this period, the amount and/or value of consideration you receive will be adversely affected. In addition, if the market price of our common stock at the end of such period is below the average volume-weighted average price of our common stock during such period, the value of any shares of our common stock that you will receive in satisfaction of our conversion obligation will be less than the value used to determine the number of shares that you will receive.

If we elect to satisfy our conversion obligation solely in shares of our common stock upon conversion of the notes, we will be required to deliver the shares of our common stock, together with cash for any fractional share, on the third business day following the relevant conversion date. Accordingly, if the price of our common stock decreases during this period, the value of the shares that you receive will be adversely affected and would be less than the conversion value of the notes on the conversion date.

**The notes are not protected by restrictive covenants.**

The indenture governing the notes does not contain any financial or operating covenants or restrictions on the payments of dividends, the incurrence of indebtedness or the issuance or repurchase of securities by us or any of our subsidiaries. The indenture contains no covenants or other provisions to afford protection to holders of the notes in the event of a fundamental change or other corporate transaction involving us except to the extent described under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes, Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off and Description of Notes Consolidation, Merger and Sale of Assets.

**The increase in the conversion rate for notes converted in connection with a make-whole fundamental change or the Hexis spin-off may not adequately compensate you for any lost value of your notes as a result of such transaction.**

Upon conversion of the notes, you may receive less valuable consideration than expected because the value of our

If a make-whole fundamental change occurs prior to the maturity date or we deliver a notice of the record date of the Hexis spin-off, under certain circumstances, we will increase the conversion rate by a number of additional shares of our common stock for notes converted in connection with such make-whole fundamental change or the Hexis spin-off, as the case may be. The increase in the conversion rate will be determined based on (i) the date on which the specified corporate transaction becomes effective or, in the case of the Hexis spin-off, the date we deliver notice of the record date of the Hexis spin-off and (ii) the price paid (or deemed to be paid) per share of our common stock in such transaction or, in the case of the Hexis spin-off, the average of the last reported sale prices of our common stock over the five trading days prior to

S-19

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## TABLE OF CONTENTS

the date we deliver notice of the record date of the Hexis spin-off, as described below under Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off. The increase in the conversion rate for notes converted in connection with a make-whole fundamental change or the Hexis spin-off, as the case may be, may not adequately compensate you for any lost value of your notes as a result of such transaction. In addition, if the price of our common stock in such transaction or when we deliver notice of the record date of the Hexis spin-off is greater than \$ per share or less than \$ per share (in each case, subject to adjustment), no additional shares will be added to the conversion rate. Moreover, in no event will the conversion rate per \$1,000 principal amount of notes as a result of this adjustment exceed shares of common stock, subject to adjustment in the same manner as the conversion rate as set forth under Description of Notes Conversion Rights Conversion Rate Adjustments.

Our obligation to increase the conversion rate for notes converted in connection with a make-whole fundamental change or the Hexis spin-off could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

### **The conversion rate of the notes may not be adjusted for all dilutive events.**

The conversion rate of the notes is subject to adjustment for certain events, including, but not limited to, the issuance of certain stock dividends on our common stock, the issuance of certain rights or warrants, subdivisions, combinations, distributions of capital stock, indebtedness, or assets, cash dividends and certain issuer tender or exchange offers as described under Description of Notes Conversion Rights Conversion Rate Adjustments. However, the conversion rate will not be adjusted for other events, such as a third-party tender or exchange offer or an issuance of common stock for cash, that may adversely affect the trading price of the notes or our common stock. An event that adversely affects the value of the notes may occur, and that event may not result in an adjustment to the conversion rate.

### **Holders of notes will not be entitled to any rights with respect to the common stock of Hexis.**

The conversion rate of the notes is subject to adjustment upon the Hexis IPO, as described under Description of Notes Conversion Rights Conversion Rate Adjustments. However, holders of notes will not be entitled to receive any shares of common stock of Hexis solely as a result of holding or converting the notes. Further, after the Hexis IPO, holders of the notes will not be entitled to any rights with respect to the common stock of Hexis (including, without limitation, voting rights and rights to receive any dividends or other distributions on Hexis's common stock) solely as a result of holding or converting the notes.

Whether we effect the Hexis IPO will depend on a number of factors, many of which are beyond our control. We cannot assure you that the Hexis IPO will occur prior to the maturity date of the notes or at all.

### **Holders of notes that convert their notes in connection with the Hexis spin-off may not receive any shares of our common stock upon conversion.**

If we notify holders of notes of the record date of the Hexis spin-off, holders will be entitled to convert their notes during the period of 10 scheduled trading days beginning on, and including, the scheduled trading day immediately succeeding the date we deliver such notice. We may settle any such conversions in cash, shares of our common stock or any combination thereof, as described under Description of Notes Conversion Rights Settlement upon



Conversion. Unless we elect to settle such conversions entirely in shares of our common stock, holders of notes that wish to participate in the Hexis spin-off will have to purchase our common stock in the public market for settlement prior to the record date for such spin-off.

Whether we effect the Hexis spin-off will depend on a number of factors, many of which are beyond our control. We cannot assure you that the Hexis spin-off will occur prior to the maturity date of the notes or at all.

**Some significant restructuring transactions and significant changes in the composition of our board may not constitute a fundamental change, in which case we would not be obligated to offer to repurchase the notes.**

Upon the occurrence of a fundamental change, you have the right to require us to repurchase your notes. However, the fundamental change provisions will not afford protection to holders of notes in the event of

## TABLE OF CONTENTS

other transactions that could adversely affect the notes. For example, transactions such as leveraged recapitalizations, refinancings, restructurings, or acquisitions initiated by us may not constitute a fundamental change requiring us to repurchase the notes. In the event of any such transaction, the holders would not have the right to require us to repurchase the notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holders of notes.

In addition, certain circumstances involving a significant change in the composition of our board, including in connection with a proxy contest where our board does not endorse a dissident slate of directors but approves them as continuing directors as defined under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes, may not constitute a fundamental change. In the event of any such significant change in the composition of our board, the holders would not have the right to require us to repurchase the notes and would not be entitled to an increase in the conversion rate upon conversion as described under Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off.

### **We cannot assure you that an active trading market will develop for the notes.**

Prior to this offering, there has been no trading market for the notes, and we do not intend to apply to list the notes on any securities exchange or to arrange for quotation on any automated dealer quotation system. We have been informed by the underwriters that they currently intend to make a market in the notes after the offering is completed. However, the underwriters may discontinue their market-making at any time without notice. In addition, the liquidity of the trading market in the notes, and the market price quoted for the notes, may be adversely affected by changes in the overall market for this type of security and by changes in our financial performance or prospects or in the prospects for companies in our industry generally. As a result, we cannot assure you that an active trading market will develop for the notes. If an active trading market does not develop or is not maintained, the market price and liquidity of the notes may be adversely affected. In that case you may not be able to sell your notes at a particular time or you may not be able to sell your notes at a favorable price.

### **Any adverse rating of the notes may cause their trading price to fall.**

We do not intend to seek a rating on the notes. However, if a rating service were to rate the notes and if such rating service were to lower its rating on the notes below the rating initially assigned to the notes or otherwise announces its intention to put the notes on credit watch, the trading price of the notes could decline.

### **You may be subject to tax if we make or fail to make certain adjustments to the conversion rate of the notes even though you do not receive a corresponding cash distribution.**

The conversion rate of the notes is subject to adjustment in certain circumstances, including the payment of cash dividends. If the conversion rate is adjusted as a result of a distribution that is taxable to our common stockholders, such as a cash dividend, you may be deemed to have received a dividend subject to U.S. federal income tax without the receipt of any cash. In addition, a failure to adjust (or to adjust adequately) the conversion rate after an event that increases your proportionate interest in us could be treated as a deemed taxable dividend to you. If a make-whole fundamental change or the Hexis spin-off occurs prior to the maturity date, under some circumstances, we will increase the conversion rate for notes converted in connection with the make-whole fundamental change or the Hexis spin-off. Such increase may also be treated as a distribution subject to U.S. federal income tax as a dividend. See Material U.S. Federal Income and Estate Tax Considerations. If you are a non-U.S. holder (as defined in Material U.S.

Some significant restructuring transactions and significant changes in the composition of our board may not constitute

Federal Income and Estate Tax Considerations ), any deemed dividend would be subject to U.S. federal withholding tax at a 30% rate, or such lower rate as may be specified by an applicable treaty, which may be withheld from subsequent payments on the notes. See Material U.S. Federal Income and Estate Tax Considerations.

**The capped call transactions may affect the value of the notes and our common stock.**

In connection with the pricing of the notes, we expect to enter into capped call transactions with the option counterparties. The capped call transactions are expected to reduce the potential dilution and/or offset any cash payments due in excess of the principal amount of converted notes, as the case may be, upon any

S-21

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## TABLE OF CONTENTS

conversion of the notes, with such reduction and/or offset subject to a cap. If the underwriters exercise their over-allotment option, we may enter into additional capped call transactions.

In connection with establishing their initial hedge of the capped call transactions, the option counterparties and/or their respective affiliates expect to enter into various derivative transactions with respect to our common stock and/or purchase shares of our common stock concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of our common stock or the notes at that time.

In addition, the option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so during any observation period related to a conversion of notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the notes, which could affect your ability to convert the notes and, to the extent the activity occurs during any observation period related to a conversion of notes, it could affect the number of shares and value of the consideration that you will receive upon conversion of the notes.

In addition, if any such capped call transactions fail to become effective, whether or not this offering of notes is completed, the option counterparties and/or their respective affiliates may unwind their hedge positions with respect to our common stock, which could adversely affect the value of our common stock and, if the notes have been issued, the value of the notes.

## **Risks Related to Our Common Stock**

**The price of our common stock historically has been volatile. This volatility may affect the price at which you could sell the common stock you receive upon conversion of your notes, if any, and the sale of substantial amounts of our common stock could adversely affect the price of our common stock and the value of your notes.**

The market price for our common stock has varied between a high of \$23.09 on March 6, 2014 and a low of \$9.71 on June 4, 2014 in the twelve-month period ending on July 11, 2014. This volatility may affect the price at which you could sell the common stock, if any, you receive upon conversion of your notes, and the sale of substantial amounts of our common stock could adversely affect the price of our common stock and the value of your notes. Our stock price is likely to continue to be volatile and subject to significant price and volume fluctuations in response to market and other factors, including the other factors discussed in **Risks Related to Our Business**; variations in our quarterly operating results from our expectations or those of securities analysts or investors; downward revisions in securities analysts' estimates; and announcement by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments.

In addition, the sale of substantial amounts of our common stock could adversely impact its price. As of March 31, 2014, we had outstanding approximately 37,403,338 shares of our common stock and options to purchase approximately 3,224,902 shares of our common stock (of which approximately 1,874,047 were exercisable as of that date). We also had outstanding warrants to purchase approximately 4,304,986 shares of our common stock, all of which were exercisable as of that date. The sale or the availability for sale of a large number of shares of our common stock in the public market could cause the price of our common stock, and the value of your notes, to decline.

The capped call transactions may affect the value of the notes and our common stock.

**Provisions in our organizational documents and in Maryland law may inhibit potential acquisition bids that our stockholders may consider favorable, which could decrease the value of shares of our common stock and the notes.**

Our charter and bylaws contain provisions that may have an anti-takeover effect and inhibit a change in our board of directors and management. These provisions include the following:

*Our charter permits our board of directors to issue preferred stock with terms that may discourage a third party from acquiring us. Our charter permits our board of directors to issue up to 5 million shares of preferred stock, having preferences, conversion or other rights, voting powers, restrictions,*

S-22

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## TABLE OF CONTENTS

limitations as to distributions, qualifications or terms or conditions of redemption as determined by our board of directors. Our board of directors could authorize the issuance of preferred stock with terms and conditions that could have the effect of discouraging a takeover or other transaction in which holders of some or a majority of our shares might receive a premium for their shares over the then-prevailing market price; and

*Our charter and bylaws contain other possible anti-takeover provisions.* Our charter and bylaws contain other provisions that may have the effect of delaying, deferring or preventing a change-of-control or the removal of existing directors and, as a result, could prevent our stockholders from being paid a premium for their common stock over the then-prevailing market price. These provisions include the advance notice requirements for stockholder proposals and director nominations.

In addition, Maryland law provides protection for Maryland corporations against unsolicited takeovers by limiting, among other things, the duties of the directors in unsolicited takeover situations. The duties of directors of Maryland corporations do not require them to:

accept, recommend or respond to any proposal by a person seeking to acquire control of the corporation;  
authorize the corporation to redeem any rights under, or modify or render inapplicable, any stockholder rights plan;  
make a determination under the Maryland Business Combination Act or the Maryland Control Share Acquisition Act;  
or  
act or fail to act solely because of the effect that the act or failure to act might have on an acquisition or potential acquisition of control of the corporation or the amount or type of consideration that may be offered or paid to the stockholders in an acquisition.

Maryland law also contains a statutory presumption that an act of a director of a Maryland corporation satisfies the applicable standards of conduct for directors under Maryland law.

Any one or more of these provisions, singularly or together, may have an anti-takeover effect that discourages potential acquisition bids that our stockholders may consider favorable, which, under certain circumstances, could reduce the market price of our common stock and the value of your notes.

## **Risks Related to Our Business**

**We currently rely on sales to the U.S. Government for substantially all of our revenue. If our relationships with U.S. Government agencies were harmed, our business, future revenue and growth prospects would be adversely affected.**

We derive substantially all of our revenue from our U.S. Government customers. For the fiscal years ended December 31, 2013, 2012, and 2011, we generated 93%, 96% and 97%, respectively, of our total revenue from contracts with the

U.S. Government, either as a prime contractor or a subcontractor. We expect that U.S. Government contracts will continue to be the primary source of our revenue for the foreseeable future. Our reputation and relationship with the U.S. Government, and in particular with the agencies of the U.S. Intelligence Community and DoD, are key factors in maintaining and growing our revenue. For example, in 2013, on a GAAP basis, approximately 50% of our revenue was derived from contracts with the NSA, approximately 23% of our revenue was derived from contracts with the

DoD, approximately 20% of revenue was derived from other major intelligence agencies and other intelligence, defense, homeland security and law enforcement organizations, and 7% was derived from commercial customers. Our business, prospects, financial condition and/or operating results would be materially harmed if:

we were to lose, or there were to occur a significant reduction in, U.S. Government funding of one or more programs for which we are the prime contractor or in which we participate;

we were suspended or debarred from contracting with the U.S. Government; or

S-23

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We currently rely on sales to the U.S. Government for substantially all of our revenue. If our relationships with U.S. C

TABLE OF CONTENTS

our reputation, relationships, or the reputations or relationships of our senior managers with the U.S. Government agencies with which we currently do business or seek to do business is impaired.

**A decline in U.S. Government spending and mission priorities may adversely affect our future revenue and limit our growth prospects.**

Continued U.S. Government expenditures on intelligence, defense and other programs for which we provide support are critically important for our business. While spending authorizations for intelligence and defense-related programs by the government have increased in recent years due to greater homeland security and foreign military commitments, and to a general outsourcing trend, these spending levels may not be sustainable and could significantly decline.

Future levels of expenditures, authorizations, and appropriations for programs we support may decrease or shift to programs in areas where we do not currently provide services, or contract opportunities may be in-sourced to be performed by U.S. Government employees. Changes in spending authorizations, appropriations, and budgetary priorities could also occur due to a shift in the number, and intensity, of potential and ongoing conflicts, including the current conflicts in Iraq and Afghanistan, the rapid growth of the federal budget deficit, increasing political pressure to reduce overall levels of government spending, shifts in spending priorities from intelligence and defense-related programs as a result of competing demands for federal funds, or other factors. Our business prospects, financial condition or operating results could be materially harmed among other causes by the following:

budgetary constraints affecting U.S. Government spending generally, or specific departments or agencies in particular, and changes in available funding (such as the recent federal government sequestration (automatic spending cuts) that affected a number of our customers);

changes in U.S. Government programs or requirements; and

U.S. Government shutdown (such as that which occurred during the government's 2014 fiscal year) and other potential delays in the appropriations process.

These or other factors could cause U.S. Government agencies and departments to reduce their purchases under contracts, exercise their right to terminate contracts, or not exercise options to renew contracts, any of which could cause us to lose revenue. A significant decline in overall U.S. Government spending, or a shift in expenditures away from agencies or programs that we support, could cause a material decline in our revenue.

**We depend on U.S. Government contract awards that are only partially funded and which depend upon annual budget appropriations. A delay in the completion of the U.S. Government's budget process or the impact of sequestration, (automatic spending cuts), could delay procurement of the services and solutions we provide and have an adverse effect on our future revenue.**

Budget decisions made by the U.S. Government are outside of our control and could have significant consequences for our business. Funding for U.S. Government contract awards is subject to Congressional appropriations. Although multi-year awards may be planned or authorized in connection with major procurements, Congress generally appropriates funds on a fiscal year basis even though a program may be expected to continue for several years.

Consequently, awards often initially receive only partial funding, and additional funds are committed only as Congress makes further appropriations. In some circumstances, we may elect to continue working on a contract that is awaiting additional incremental funding, because we expect the funding to be forthcoming soon, but this may place us at risk of not being paid if additional funding is not subsequently added to the contract. The termination of funding for any of our U.S. Government prime contracts or subcontracts could result in a loss of anticipated future revenue attributable to that program and a reduction in our cash flows and could have an adverse impact on our operating

A decline in U.S. Government spending and mission priorities may adversely affect our future revenue and limit our



results.

In years when the U.S. Government does not complete its budget process before the end of its fiscal year on September 30, government operations are typically funded pursuant to a continuing resolution that authorizes agencies of the U.S. Government to continue to operate, but does not authorize new spending initiatives. When the U.S. Government operates under a continuing resolution, delays can occur in the procurement of the services and solutions that we provide. When supplemental budgets are required to operate the U.S. Government and passage of legislation needed to approve any supplemental budget is delayed, the overall funding environment for our business could be adversely affected.

S-24

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TABLE OF CONTENTS

**The U.S. Government may modify, curtail or terminate our contracts at any time prior to their completion and, if we do not replace them, we may be unable to sustain our revenue growth and may suffer a decline in revenue.**

Many of the U.S. Government programs in which we participate as a contractor or subcontractor may extend for several years. These programs are normally funded on an incremental basis. Under our contracts, the U.S. Government generally has the right not to exercise options to extend or expand our contracts and may modify, curtail or terminate the contracts and subcontracts at its convenience.

If the U.S. Government terminates a contract for convenience, we may recover only our reasonably incurred or committed allowable costs, settlement expenses and profit on work completed prior to the termination. We cannot recover anticipated future profits on terminated work. If the U.S. Government terminates a contract for default, we may not recover each of those types of costs, and instead may be liable for excess costs incurred by the U.S. Government in procuring undelivered items and services from another source.

Any decision by the U.S. Government not to exercise contract options or to modify, curtail or terminate our major programs or contracts would adversely affect our revenue and revenue growth. We may not realize the full amounts of revenue reflected in our backlog, which could adversely affect our future revenue and growth prospects.

**We may not realize as revenue the full amounts reflected in our backlog, which could adversely affect our future revenue and growth prospects.**

As of December 31, 2013, our total backlog was \$509 million, which included \$377 million in unfunded backlog. As of December 31, 2012, our total backlog was \$492 million, which included \$340 million in unfunded backlog. The U.S. Government's ability not to exercise contract options or to modify, curtail or terminate our major programs or contracts makes the calculation of backlog subject to numerous uncertainties. Due to the uncertain nature of our contracts with the U.S. Government, we may never realize revenue from some of the engagements that are included in our backlog. Our unfunded backlog, in particular, contains amounts that we may never realize as revenue because the maximum contract value specified under a U.S. Government contract or task order awarded to us is not necessarily indicative of the revenue that we will realize under that contract. If we fail to realize revenue amounts included in our backlog, our future revenue and growth prospects may be adversely affected. For additional information on our backlog, see the section titled "Business - US Federal Government Contracts - Backlog" in our Annual Report on Form 10-K.

**If we fail to comply with complex procurement laws and regulations, we could lose business and be liable for various penalties or sanctions.**

We must comply with laws and regulations relating to the formation, administration and performance of federal government contracts. These laws and regulations affect how we conduct business with our federal government customers. In complying with these laws and regulations, we may incur significant costs, and the U.S. Government may impose additional fines and penalties, including contractual damages, in the event of our non-compliance.

Among the more significant laws and regulations affecting our business are the following:

the Federal Acquisition Regulation, which comprehensively regulates the formation, administration and performance of federal government contracts;

The U.S. Government may modify, curtail or terminate our contracts at any time prior to their completion and, if we

the Truth in Negotiations Act, which requires certification and disclosure of all cost and pricing data in connection with cost-type contracts;  
the Cost Accounting Standards and Cost Principles, which impose accounting requirements that govern our right to reimbursement under certain cost-based federal government contracts; and  
laws, regulations and executive orders restricting the use and dissemination of classified information and, under US export control laws, the export of certain products and technical data.

S-25

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TABLE OF CONTENTS

Our contracting agency customers periodically review our performance under and compliance with the terms of our federal government contracts. If we fail to comply with these laws and regulations or if a government review or investigation uncovers improper or illegal activities, we may be subject to civil or criminal penalties or administrative sanctions, including:

termination of contracts;  
forfeiture of profits;  
cost associated with triggering of price reduction clauses;  
suspension of payments;  
fines; and

suspension or debarment from doing business with the U.S. Government.

Additionally, the False Claims Act provides for potentially substantial civil and criminal penalties where, for example, a contractor presents a false or fraudulent claim to the U.S. Government for payment or approval. Actions under the False Claims Act may be brought by the U.S. Government or by other persons on behalf of the U.S. Government (who may then share a portion of any recovery).

Because the majority of all of our revenue is dependent on our selection, performance and payment under our U.S. Government contracts, the loss of one or more large contracts or any suspension or debarment from doing business with U.S. Government agencies would result in a loss of anticipated future revenue from U.S. Government contracts and a reduction in cash flows and would have a material adverse effect on our operating results.

**U.S. Government contracts contain other provisions that may be unfavorable to contractors.**

Beyond the right to terminate a contract for convenience or decline to exercise an option to renew, U.S. Government contracts contain provisions and are subject to laws and regulations that give the U.S. Government rights and remedies not typically found in commercial contracts. These provisions, laws and regulations permit the U.S. Government to do (among other things) the following:

reduce or modify contracts or subcontracts;  
cancel multi-year contracts and related orders if funds for contract performance for any subsequent year become unavailable;  
claim certain rights (including, under certain circumstances, certain intellectual property rights) in products and systems produced by us; and  
suspend or debar us from doing business with the U.S. Government.

If the U.S. Government exercises its rights under any of these provisions, our ability to operate or our competitive advantage could be hindered, and our revenue and net income could decline and our operating results could be materially adversely affected.

Further, U.S. Government contracts and certain laws and regulations, including without limitation, the International Traffic in Arms regulations and laws and contract restrictions relating to classified information, contain provisions that may restrict our ability to provide our products and services to third parties. These restrictions may prevent us from leveraging our products, services, intellectual property, know-how or other revenue-generating aspects of our business or our acquisitions to the fullest extent in the commercial sector.

**The U.S. Government may revise its procurement or other practices in a manner adverse to us.**

The U.S. Government may revise its procurement practices or adopt new contracting rules and regulations, such as cost accounting standards. It could also adopt new contracting methods relating to General Services Administration (GSA) contracts, or other government-wide acquisition contracts (GWACs), or adopt new standards for contract awards intended to achieve certain social or other policy objectives. In addition, the U.S. Government may face restrictions from new legislation or regulations, as well as pressure from U.S. Government employees and their unions, on the nature and amount of services the U.S. Government may

S-26

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TABLE OF CONTENTS

obtain from private contractors. These changes could impair our ability to obtain new contracts or to continue to retain contracts under which we currently perform when and if those contracts are put up for renewed competitive bidding. Any new contracting methods could be costly or administratively difficult for us to implement, and, as a result, could harm our operating results.

**Audits by U.S. Government agencies could result in unfavorable audit results that could subject us to a variety of penalties and sanctions, and could harm our reputation and relationships with our customers.**

U.S. Government agencies, including the Defense Contract Audit Agency (DCAA) and others, routinely audit and review contractors' performance on contracts, cost structure, pricing practices and compliance with applicable laws, regulations and standards. They also review the adequacy of, and a contractor's compliance with, its internal control systems and policies, including the contractor's accounting, billing, cost, purchasing, property, estimating, compensation, management information system and other systems. Any costs found to be improperly allocated to a specific contract will not be reimbursed, while such costs already reimbursed must be refunded. Adverse findings in a DCAA audit could materially affect our competitive position and result in a substantial adjustment to our revenue and net income.

If a U.S. Government audit uncovers improper or illegal activities, we may be subject to civil and criminal penalties and administrative sanctions, including termination of contracts, forfeiture of net income, suspension of payments, fines and suspension or debarment from doing business with U.S. Government agencies. In addition, we could suffer serious harm to our reputation and competitive position if allegations of impropriety were made against us, whether true or not. If our reputation or relationship with U.S. Government agencies were impaired, or if the U.S. Government otherwise ceased doing business with us or significantly decreased the amount of business it does with us, our revenue and net income would decline and our operating results could be materially adversely affected.

**A significant portion of our revenue and net income is derived from a few key programs. The loss of any one or more of these programs could cause a material decline in our operating results.**

For the year ended December 31, 2013, and the year ended December 31, 2012, our 10 largest programs accounted for a total of \$160 million and \$97 million, respectively, or 54% and 40% of our total revenue, respectively. Although we have been successful in continuing work on most of our large programs in the past, there is no assurance that we will be able to do so in the future. The revenue stream from one or more of these programs could end for a number of reasons, including the completion of the customer's requirements, the completion or early termination of our current program, the consolidation of our work into another program where we are not a contractor under that program, or the loss of a competitive bid for the follow-on work related to our current program. If any of these events were to occur, we could experience an unexpected, significant reduction in revenue and net income.

**We derive significant revenue from contracts awarded through a competitive bidding process involving substantial costs and risks. Due to this competitive pressure, we may be unable to sustain our revenue growth and profitability.**

We expect a significant portion of the business that we will seek in the foreseeable future will be awarded through competitive bidding. The competitive bidding process involves substantial costs and a number of risks, including the

significant cost and managerial time to prepare bids and proposals for contracts that may not be awarded to us and our failure to accurately estimate the resources and costs that will be required to fulfill any contract we win. In addition, following a contract award, we may encounter significant expense, delay or contract modifications as a result of our competitors protesting or challenging contracts awarded to us in competitive bidding. In addition, multi-award contracts require that we make sustained post-award efforts to obtain task orders under the contract. We may not be able to obtain task orders or recognize revenue under these multi-award contracts. Our failure to compete effectively in this procurement environment would adversely affect our revenue and/or profitability.

S-27

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TABLE OF CONTENTS

**Our overseas operations involve considerable risks and hazards. An accident or incident involving our employees or third parties could harm our reputation, affect our ability to compete for business, and if not adequately insured or indemnified, could adversely affect our results of operations and financial condition.**

We are exposed to liabilities that arise from some of the services we provide. Such liabilities may relate to an accident or incident involving our employees or third parties, particularly where we are deployed on-site at active military installations in locations experiencing political or civil unrest, or they may relate to an accident or incident involving aircraft or other equipment we have serviced or used in the course of our business. Any of these types of accidents or incidents could involve significant potential claims of injured employees and other third parties and claims relating to loss or of damage to government or third-party property.

We maintain insurance policies that mitigate risk and potential liabilities related to our operations. Our insurance coverage may not be adequate to cover those claims or liabilities, and we may be forced to bear substantial costs from an accident or incident. Substantial claims in excess of our related insurance coverage could adversely affect our operating performance and may result in additional expenses and possible loss of revenue.

Furthermore, any accident or incident for which we are liable, even if fully insured, may result in negative publicity which could adversely affect our reputation among our customers, including our U.S. Government customers, and the public, which could result in the loss of existing and future contracts or make it more difficult to compete effectively for future contracts. This could adversely affect our operating performance and may result in additional expenses and possible loss of revenue.

**We face intense competition from many competitors that, among other things, have greater resources than we do.**

We operate in highly competitive markets and generally encounter intense competition to win contracts and task orders. We compete with many other firms, ranging from small, specialized firms to mid-tier technology firms and large, diversified firms, many of which have substantially greater financial, management and marketing resources than we do. Significant competitors include divisions of large defense contractors such as Lockheed Martin Corporation, The Boeing Company and Northrop Grumman Corporation. We also face competition from a number of large, well-established U.S. Government contractors such as Leidos, Inc., CACI International Inc. and others. Our competitors may be able to provide our customers with different or greater capabilities or benefits than we can in areas such as technical qualifications, past contract performance, geographic presence, price and the availability of qualified professional personnel. Our failure to compete effectively because of any of these or other factors could cause our revenue and operating profits to decline. In addition, our competitors also have established or may establish relationships among themselves or with third parties to increase their ability to address our customers' needs. Accordingly, it is possible that new competitors or alliances among competitors may emerge that would compete with us more effectively than they do currently.



TABLE OF CONTENTS

**Our earnings and profitability may vary based on the mix of our contracts and may be adversely affected by our failure to accurately estimate and manage costs, time and resources.**

We generate revenue under various types of contracts, which include time and materials (T&M), fixed-price-level-of-effort, firm-fixed-price (FFP), and cost reimbursement contracts. For the years ended December 31, 2013 and December 31, 2012, we derived revenue from such contracts on an actual basis, and for 2012, on a pro forma basis (calculated as if all acquisitions had been made as of January 1, 2012), as follows:

Contract Type	Year ended December 31, 2013		
	Actual		
	(in millions)	(percentage)	
Time & Materials	\$ 109.4	36.6	%
Fixed-Price-Level-of-Effort	\$ 43.2	14.5	%
Firm-Fixed-Price	\$ 40.7	13.6	%
Cost Reimbursement	\$ 105.4	35.3	%

  

Contract Type	Year ended December 31, 2012					
	Actual			Pro Forma (unaudited)		
	(in millions)	(percentage)		(in millions)	(percentage)	
Time & Materials	\$ 116.2	47.8	%	\$ 146.3	50.0	%
Fixed-Price-Level-of-Effort	\$ 33.1	13.6	%	\$ 36.7	12.6	%
Firm-Fixed-Price	\$ 67.9	27.9	%	\$ 74.8	25.5	%
Cost Reimbursement	\$ 26.3	10.7	%	\$ 34.9	11.9	%

Our earnings and profitability may vary materially depending on changes in the proportionate amount of revenue derived from each type of contract, the nature of services or products provided, as well as the achievement of performance objectives and the stage of performance at which the right to receive fees, particularly under incentive and award fee contracts, is finally determined. Cost reimbursement and T&M contracts generally have lower profitability than FFP contracts. Our operating results in any period may be affected, positively or negatively, by variable purchasing patterns by our customers of our more profitable border, port and mobile security products.

To varying degrees, there is a risk that we could underestimate the costs and resources necessary to fulfill each of our contract types. While FFP contracts allow us to benefit from cost savings, these contracts also increase our exposure to the risk of cost overruns. When making proposals on these types of contracts, we rely heavily on our estimates of costs and timing for completing the associated projects, as well as on assumptions regarding technical issues. In each case, our failure to accurately estimate costs or the resources and technology needed to perform our contracts or to effectively manage and control our costs during the performance of our work could result, and in some instances has resulted, in reduced profits or in losses. More generally, any increased or unexpected costs or unanticipated delays in connection with the performance of our contracts, including costs and delays caused by contractual disputes or other factors outside of our control, could make our contracts less profitable or unprofitable.

We face intense competition from many competitors that, among other things, have greater resources than we do.

**We have a limited operating history, which may not provide an adequate basis for projection of our future prospects and results of operations.**

Our limited operating history and method of initial growth may not provide a meaningful basis on which to evaluate our business. Since our founding in 2008, we have undertaken multiple acquisitions that have provided the basis of our business and revenue. Although our revenues have grown significantly since our formation, we may not be able to maintain our profitability and may incur net losses in the future. The lack of long term historical financial results as an operating entity may make it difficult to project our revenues and profitability. Further, we are subject to the risks inherent in the ownership and operation of a company with a limited operating history, such as setbacks and delays in integration of acquired companies, fluctuations in expenses, and competition from competitors that have a more extensive operating history and track record.

S-29

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TABLE OF CONTENTS

Any failure to address these risks could seriously harm our business and prospects. We will continue to encounter risks and challenges frequently experienced by companies at a similar stage of development, including:

the ability to implement our business strategies and to adapt and modify them as needed;  
our efforts to develop and protect our reputation and customer loyalty within the sectors in which we compete for contracts;  
the management of our acquired subsidiaries and integrated operations, including the integration of any future acquisitions;

maintaining adequate control of our expenses; and  
anticipating and adapting to future government proposals and the impact of any changes in government regulation.

**Acquisitions have formed a significant part of our growth strategy in the past and we expect to continue this strategy in the future. If we are unable to identify suitable acquisition candidates, integrate the businesses we acquire or realize the intended benefits, this aspect of our growth strategy may not succeed. Acquisitions involve numerous risks, including risks related to integration and undisclosed or underestimated liabilities.**

Historically, part of our growth strategy has relied on acquisitions. We expect to derive a portion of our growth by acquiring businesses and integrating those businesses into our existing operations. We intend to seek acquisition opportunities both to expand into new markets and to enhance our position in our existing markets. However, our ability to do so will depend on a number of steps, including our ability to:

identify suitable acquisition candidates;  
negotiate appropriate acquisition terms;  
obtain debt or equity financing that we may need to complete proposed acquisitions;  
complete the proposed acquisitions; and  
integrate the acquired business into our existing operations.

If we fail to achieve any of these steps, our growth strategy may not be successful.

In addition, acquisitions involve numerous risks, including difficulties in the assimilation of the operations accounting systems, technologies, services and products of the acquired company, the potential loss of key employees of the acquired company and the diversion of our management's attention from other business concerns. This is the case particularly in the fiscal quarters immediately following the completion of an acquisition to the extent the operations of the acquired business are integrated into the acquiring businesses' operations during this period. We cannot be sure that we will accurately anticipate all of the changing demands that any future acquisition may impose on our management, our operational and management information systems, and our financial systems.

We may underestimate or fail to discover liabilities relating to a future acquisition during due diligence and we, as the successor owner, might be responsible for any such liabilities. Although we seek to minimize the impact of underestimated or potential undiscovered liabilities by structuring acquisitions to minimize liabilities and obtaining indemnities and warranties from the selling party, these methods may not fully protect us from the impact of undiscovered liabilities. Indemnities or warranties are often limited in scope, amount or duration, and may not fully cover the liabilities for which they were intended. The liabilities that are not covered by the limited indemnities or warranties could have a material adverse effect on our business and financial condition. In addition, acquisitions can raise potential Organizational Conflict of Interest (OCI) issues that can impact the nature and timing of the acquisition or the acquiring entity's ability to compete for future contracts where the acquired entity may have been involved.

Acquisitions have formed a significant part of our growth strategy in the past and we expect to continue this strategy



TABLE OF CONTENTS

**We have a substantial investment in recorded goodwill as a result of our acquisitions, and changes in future business conditions could cause these investments to become impaired, requiring substantial write-downs that could reduce our net income or increase our net loss.**

As of December 31, 2013, goodwill accounted for \$297 million, or 66% of our recorded total assets on an actual basis.

As of March 31, 2014, goodwill accounted for \$297 million, or 70% of our recorded total assets on an actual basis.

We review our goodwill for impairment annually and when events or changes in circumstances indicate the carrying value may not be recoverable. We evaluate our goodwill at the segment level. The annual impairment test is based on several factors requiring judgment. Principally, a decrease in expected cash flows or changes in market conditions may indicate potential impairment of recorded goodwill. If goodwill became impaired, we could record a significant charge to earnings in our financial statements during the period in which impairment of our goodwill is determined, which would significantly reduce or eliminate our net income.

**We may require additional capital to finance our growth. If the terms on which the additional capital is available are unsatisfactory or if the additional capital is not available at all or we are not able to fully access our existing credit facility we may not be able to pursue our growth strategy.**

Our growth strategy may require additional capital investment to complete acquisitions, integrate any completed acquisitions into our existing operations, and to expand into new markets.

To the extent that we do not generate sufficient cash internally to provide the capital we require to fund our growth strategy and future operations, we will require additional debt or equity financing. We cannot be sure that this additional financing will be available or, if available, will be on terms acceptable to us. Further, high volatility in the equity markets may make it difficult for us to access the equity markets for additional capital at attractive prices, if at all. If we are unable to obtain sufficient additional capital in the future, it may limit our ability to implement our business strategy. Continued issues resulting from the current global financial crisis and economic downturn involving liquidity and capital adequacy affecting lenders could affect our ability to fully access our existing credit facilities. In addition, even if future debt financing is available, it may result in (1) increased interest expense, (2) increased term loan payments, (3) increased leverage, and (4) decreased income available to fund further acquisitions and expansion. It may also limit our ability to withstand competitive pressures and make us more vulnerable to economic downturns.

If future equity financing is available, it may dilute the equity interests of our existing stockholders.

**If we are unable to manage our growth, our business could be adversely affected.**

Achieving our plans for growth will place significant demands on our management, as well as on our administrative, operational, and financial resources. For us to successfully manage our growth, we must continue to improve our operational, financial and management information systems and expand, motivate and manage our workforce. If we are unable to successfully manage our growth without compromising the quality of our services and products, our business, prospects, financial condition or operating results could be adversely affected.

**We are dependent on the continued services and performance of our senior management, the loss of any of whom could adversely affect our business, operating results and financial condition.**

We believe that our future performance depends on the continued services and continuing contributions of our senior management to execute our business plan, and to identify and pursue new opportunities successfully. In addition, the relationships and reputation that many members of our senior management team have established and maintain with federal government personnel contribute to our ability to maintain strong customer relationships. Therefore, the loss of services of senior management could significantly delay or prevent the achievement of our development and strategic objectives.

S-31

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TABLE OF CONTENTS

**Our failure to attract, train and retain skilled employees with (or who can obtain) appropriate security clearances would adversely affect our ability to execute our strategy.**

Our business involves the development of tailored solutions for our customers, a process that relies heavily upon the expertise and services of our employees. Our continued success depends on our ability to recruit and retain sufficient numbers of highly qualified individuals who have advanced engineering and information technology skills, specialized knowledge of customer missions and appropriate security clearances, and who work well with our U.S. Government customers. Due to our growth and increased competition for experienced personnel, particularly in highly specialized areas, it has become more difficult for us to meet our needs for these employees in a timely manner and this may affect our growth in the current fiscal year and in future years. Although we intend to continue to devote significant resources to recruit, train and retain qualified employees, we may not be able to attract and retain these employees. Any failure to do so could impair our ability to perform our contractual obligations efficiently and timely meet our customers' needs and win new business, which could adversely affect our future results. Our overall employee attrition rate for the year ended December 31, 2013, and for the fiscal year ended December 31, 2012, on an actual basis, was 17% and 15%, respectively.

In addition, the relationships and reputation that many members of our senior management team have established and maintain with U.S. Government personnel contribute to our ability to maintain good customer relationships and to identify new business opportunities. The loss of key personnel may impair our ability to obtain new U.S. Government awards or adequately perform under our current U.S. Government contracts. We also rely on the skills and expertise of our senior technical development personnel, the loss of any of whom could prevent us from completing current development projects and restrict new development projects. We currently do not maintain key person insurance on any of our executives or key employees.

**Our business depends upon obtaining and maintaining required security clearances.**

Many of our federal government contracts require our employees to maintain various levels of security clearances, and we are required to maintain certain facility security clearances complying with DoD and Intelligence Community requirements. Obtaining and maintaining security clearances for employees involves lengthy processes, and it is difficult to identify, recruit and retain employees who already hold security clearances. If our employees are unable to obtain or retain security clearances or if our employees who hold security clearances terminate employment with us and we are unable to find replacements with equivalent security clearances, we may be unable to perform our obligations to customers whose work requires cleared employees, or such customers could terminate their contracts or decide not to renew them upon their expiration. In addition, we expect that many of the contracts on which we will bid will require us to demonstrate our ability to obtain facility security clearances and perform work with employees who hold specified types of security clearances. To the extent we are not able to obtain or retain facility security clearances or engage employees with the required security clearances for a particular contract, we may not be able to bid on or win new contracts, maintain existing contracts or effectively re-bid on expiring contracts.

**Employee misconduct, including security breaches, could cause us to lose customers or our ability to contract with the U.S. Government.**

Misconduct, fraud or other improper activities by our employees could have a significant adverse impact on our business and reputation, particularly because we are a U.S. Government contractor. Such misconduct could include

the failure to comply with U.S. Government procurement regulations, regulations regarding the protection of classified information, legislation regarding the pricing of labor and other costs in U.S. Government contracts, and any other applicable laws or regulations. Employee or former employee misconduct involving data security lapses or breaches of confidentiality resulting in the compromise of our or our customer's sensitive or classified information could result in remediation costs, in regulatory sanctions against us and in serious harm to our reputation. The precautions we take to prevent and detect these activities may not be effective, and we could face unknown risks or losses. Our failure to comply with applicable laws or regulations or misconduct by any of our employees could subject us to fines and penalties, loss of security clearances and suspension or debarment from contracting with the U.S. Government, any of which would adversely affect our business and reputation.

S-32

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TABLE OF CONTENTS

**Our quarterly operating results are likely to vary significantly and be unpredictable, which could cause the trading price of our stock to decline.**

Our operating results have historically varied from period to period, and we expect that they will continue to do so as a result of a number of factors, many of which are outside of our control, including:

- the level of demand for our products and services;
- the budgeting cycles and purchasing practices of our customers;
- acquisitions of other businesses;
- the sales cycle for our commercial products;
- failure to accurately estimate or control costs under FFP contracts;
- commencement, completion or termination of projects during any particular quarter; and
- changes in senior U.S. Government officials that affect the timing of technology procurement.

Any one of the factors above or the cumulative effect of some of the factors referred to above may result in significant fluctuations in our quarterly operating results. This variability and unpredictability could result in our failing to meet our revenue or operating results expectations or those of securities analysts or investors for any period. If we fail to meet or exceed such expectations for these or any other reasons, the market price of our shares could fall substantially.

**Our existing senior credit facility contains financial and operating covenants that limit our operations and could lead to adverse consequences if we fail to comply.**

Our credit facility contains financial and operating covenants that, among other things, require us to maintain or satisfy specified financial ratios (including debt to adjusted EBITDA, or earnings before interest, taxes, depreciation, amortization, stock compensation and acquisition costs ratios and fixed charge coverage ratios as further described under the section titled Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Credit Facility in our Annual Report on Form 10-K, limit our ability to incur indebtedness, pay dividends or engage in certain significant business transactions, and require us to comply with a number of other affirmative and negative operating covenants. Failure to meet these financial and operating covenants could result from, among other things, changes in our results of operations, our incurrence of debt or changes in general economic conditions. These covenants may restrict our ability to engage in transactions that we believe would otherwise be in the best interests of our stockholders, which could harm our business and operations. In addition, our credit facility contains several other material covenants, including a lien against our assets (including receivables), limitations on additional debt, limitations on our ability to make acquisitions, a limitation on the payment of dividends, and restrictions on the sale, lease, or disposal of any substantial part of our assets, other than in the normal course of business.

**We have only a limited ability to protect and enforce our intellectual property rights, which we consider important to our success. Failure to adequately protect or enforce our intellectual property rights could adversely affect our competitive position and cause us to incur significant expense.**

We believe that our success depends, in part, upon our ability to protect our proprietary information and other intellectual property. We rely principally on trade secrets to protect much of our intellectual property where we do not believe that patent protection is appropriate or obtainable. However, trade secrets are difficult to protect and to enforce

Our quarterly operating results are likely to vary significantly and be unpredictable, which could cause the trading price

against third parties. Although we believe that we have adopted reasonable practices to ensure that our employees are subject to appropriate confidentiality obligations and to ensure that we obtain appropriate ownership rights in intellectual property developed by our employees (or by the employees of companies that we have acquired), our practices in this regard may be insufficient, which could result in the misappropriation or disclosure of our confidential information or disputes regarding (or the loss of rights to) certain of our intellectual property. In addition, we may be unable to detect unauthorized use of our intellectual property or otherwise take appropriate steps to enforce our rights. Failure to obtain or maintain trade secret protection could adversely affect our competitive business position. The protections that we

S-33

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TABLE OF CONTENTS

receive for our trade secrets and other intellectual property rights may not be sufficient to prevent our competitors from copying, infringing, or misappropriating our products and services. Similarly, there is no guarantee that when we do apply for intellectual property protection, the applications will result in registrations sufficient to protect our rights.

In addition, we cannot be certain that others will not independently develop, design around or otherwise acquire equivalent or superior technology or intellectual property rights.

From time to time, we may seek to enforce our intellectual property rights against third parties. The fact that we have intellectual property rights may not guarantee success in our attempts to enforce these rights against third parties. If

we are unable to prevent third parties from infringing or misappropriating our trade secrets or other intellectual property rights, our competitive position could be adversely affected. Our ability and potential success in enforcing our rights is also subject to general litigation risks, as well as uncertainty as to the enforceability of our intellectual property rights. When we seek to enforce our rights, we may be subject to claims that our intellectual property rights are invalid, otherwise unenforceable, or are licensed to the party against whom we are asserting the claim. In addition, our assertions of intellectual property rights may result in the other party seeking to assert various claims against us,

including its own alleged intellectual property rights, claims of unfair competition, or others. In the course of conducting our business, we may also inadvertently infringe the intellectual property rights of others, resulting in claims against us or our customers. Our contracts generally indemnify our customers for third-party claims for intellectual property infringement by the services and products we provide. The expense of defending these claims may adversely affect our financial results.

Our acquisitions frequently include the hiring of employees from the acquired entity. These employees may be subject to confidentiality provisions that are not related to the acquisition and may have been exposed to third party confidential information and intellectual property that we do not have the rights to use. During the course of their employment in our business, there is always a risk that employees may inadvertently breach confidentiality obligations or inadvertently infringe third party intellectual property rights based on their prior employment, which could adversely affect our business.

In addition, we conduct research and development under projects with the U.S. Government. In general, our rights to technologies we develop under those projects are subject to the U.S. Government's non-exclusive, non-royalty bearing, world-wide license to use those technologies. Under certain circumstances, the U.S. Government could also claim rights in our intellectual property that could make it difficult to prevent disclosure to, licensing to, or use by third parties, which could adversely affect our competitive position and business.

**We may become involved in intellectual property disputes, which could subject us to significant liability, divert the time and attention of our management and prevent us from selling our products.**

We, or our customers, may be a party to litigation in the future to protect our intellectual property or be required to respond to allegations that we infringe on others' intellectual property. If any parties assert that our products infringe upon their proprietary rights, we would be forced to defend ourselves, and possibly our customers, against the alleged infringement, or to negotiate and possibly enter into settlement agreements that could adversely affect our intellectual property rights or the operation of our business. If we are unsuccessful in any intellectual property litigation or enter into any dispute-related settlement, we could be subject to significant liability and loss of our proprietary rights.

Intellectual property litigation, regardless of its success, would likely be time consuming and expensive to resolve and would divert management's time and attention. In addition, we could be forced to do one or more of the following:

stop selling, incorporating or using our products that include the challenged intellectual property;

We may become involved in intellectual property disputes, which could subject us to significant liability, divert the time

obtain from the owner of any infringed intellectual property right a license to sell or use the relevant technology, which license may not be available on reasonable terms, or at all, or may require us to extend a cross-license to rights under our intellectual property;

pay substantial damages; and/or

S-34

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TABLE OF CONTENTS

re-design those products that use the technology.  
If we are forced to take any of these actions, our business could be harmed.

**We rely on the availability of third-party licenses.**

Certain of our products include software or other intellectual property licensed from third parties. It may be necessary in the future to renew licenses relating to various aspects of these products or to seek new licenses for existing or new products. There can be no assurance that the necessary licenses would be available on equivalent terms to those currently available, on other terms acceptable to us, or at all. The inability to obtain certain licenses or other rights or to obtain such licenses or rights on favorable terms, or the need to engage in litigation regarding these matters, could result in delays in product releases until equivalent technology can be identified, licensed or developed, if at all, and integrated into our products and may have a material adverse effect on our business, operating results, and financial condition. Moreover, the inclusion in our products of software or other intellectual property licensed from third parties on a nonexclusive basis could limit our ability to differentiate our products from those of our competitors.

**Many of our contracts contain performance obligations that require innovative design capabilities, are technologically complex, require state-of-the-art manufacturing expertise or are dependent upon factors not wholly within our control. Failure to meet these obligations could adversely affect our profitability and future prospects.**

We design, develop and manufacture technologically advanced and innovative products and services applied by our customers in a variety of environments. Problems and delays in development or delivery as a result of issues with respect to design, technology, licensing and patent rights, labor, learning curve assumptions or materials and components could prevent us from achieving contractual requirements.

In addition, our products cannot be tested and proven in all situations and are otherwise subject to unforeseen problems. Examples of unforeseen problems that could negatively affect revenue and profitability include premature failure of products that cannot be accessed for repair or replacement, problems with quality, country of origin, delivery of subcontractor components or services and unplanned degradation of product performance. Among the factors that may affect revenue and profits could be unforeseen costs and expenses not covered by insurance or indemnification from the customer, diversion of management focus in responding to unforeseen problems, loss of follow-on work, and, in the case of certain contracts, repayment to the U.S. Government customer of contract cost and fee payments we previously received.

**Business disruptions could reduce our expected revenue, increase our expenses, and damage our reputation.**

We rely to a large extent upon sophisticated technology systems and infrastructure. We take reasonable steps to protect them, including the implementation and use of certain security precautions. However they are potentially vulnerable to breakdown, malicious intrusion, natural disaster, and random attack. A disruption to our systems or infrastructure could damage our reputation and cause us to lose customers and revenue. This could require us to expend significant efforts and resources or incur significant expense to eliminate these problems and address related security concerns.

In addition, as a defense contractor, we face various security threats, including cybersecurity threats to gain unauthorized access to sensitive information; threats to the safety of our directors, officers, and employees; threats to the security of our facilities and infrastructure; and threats from terrorist acts. Although we utilize various procedures and controls to monitor and mitigate these threats, there can be no assurance that these procedures and controls will be sufficient to prevent security threats from materializing. If any of these events were to materialize, they could lead to losses of sensitive information or capabilities, harm to personnel or infrastructure, or damage to our reputation, and could have a material adverse effect on our financial position, results of operations, or cash flows.

**If our new products, including Hawkeye G, do not achieve sufficient market acceptance, our financial results and competitive position may suffer.**

We spend substantial amounts of time and money to research and develop new products and enhanced versions of our existing products to incorporate additional features, improve functionality or incorporate other

S-35

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TABLE OF CONTENTS

enhancements in order to meet our customers' rapidly evolving demands. When we develop a new product or an enhanced version of an existing product, we typically incur expenses and expend resources upfront to market, promote and sell the new offering. Therefore, when we develop and introduce new or enhanced products, they must achieve market acceptance in order to justify the amount of our investment in developing and bringing them to market.

Our new products or enhancements could fail to attain sufficient market acceptance for many reasons, including:

failure to predict market demand accurately in terms of functionality and to supply products that meet demand in a timely fashion;

defects, errors or failures;

negative publicity about their performance or effectiveness;

delays in releasing our new products or enhancements to the market;

introduction or anticipated introduction of competing products by our competitors; and

poor business conditions for our end-customers, causing them to delay purchases.

Implementation of Hawkeye G, in particular, is in its early stages and it is difficult to predict customer adoption, customer demand, the size and growth rate of the market, and the entry of competitive products.

If our new products or enhancements (particularly Hawkeye G) do not achieve adequate acceptance in the market, our competitive position may be impaired, and our financial results may suffer. The adverse effect on our financial results will be directly related to the significant research, development, marketing, sales and other expenses we will have incurred in connection with the new products or enhancements.

**Our current research and development efforts may not produce successful products or features that result in significant revenue in the near future, if at all.**

Developing our products and related enhancements is expensive. For the year ended December 31, 2013, our research and development costs totaled \$7.5 million, a 140% increase over our total research and development costs for the year ended December 31, 2012. Our investments in research and development may not result in significant design improvements, marketable products or features or may result in products that are more expensive than anticipated.

Additionally, we may not receive significant revenue from these investments in the near future, if at all, or these investments may not yield expected benefits, either of which could adversely affect our business and operating results.

Nevertheless, we believe that we must continue to dedicate a significant amount of resources to our research and development efforts to maintain our competitive position. As a result, our future plans include significant investments in research and development and related product opportunities. In particular, we have incurred significant research and development costs in connection with Hawkeye G, which largely accounts for the increase described above. If Hawkeye G does not garner widespread market adoption and implementation, our financial results and competitive position could suffer.

**If we do not accurately predict, prepare for, and respond promptly to the rapidly evolving technological and market developments and changing end-customer needs in the cybersecurity market, our competitive position and prospects will be harmed.**

The cybersecurity market is expected to continue to evolve rapidly. Many of our end-customers operate in markets characterized by rapidly changing technologies and business needs, incorporating a variety of hardware, software

If our new products, including Hawkeye G, do not achieve sufficient market acceptance, our financial results and com

applications, operating systems, and networking protocols. However, some of our new products and enhancements may require us to develop new architectures that involve complex, expensive, and time consuming research and development processes. The technology in our products is especially complex because it needs to effectively identify and respond to new and increasingly sophisticated methods of attack, and quickly respond to and eliminate negative impacts on network performance. As a result, although the market expects rapid introduction of new products or product enhancements to respond to new threats, the development of these products is difficult and the timetable for commercial release and availability is uncertain as there can be long time periods between releases and availability of new products. We may

S-36

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TABLE OF CONTENTS

experience unanticipated delays in the availability of new products and fail to meet customer expectations for such availability. If we do not quickly respond to the rapidly changing and rigorous needs of our end-customers by developing, releasing, and making available on a timely basis new products or enhancements that can respond adequately to new security threats, our competitive position and business prospects will be harmed.

Additionally, the process of developing new technology is complex and uncertain, and if we fail to accurately predict end-customers' changing needs and emerging technological trends, our business could be harmed. There can be no assurance that we will successfully identify new product opportunities, develop and bring new products to market in a timely manner, or achieve market acceptance of our products, or that products and technologies developed by others will not render our products or technologies obsolete or noncompetitive.

**If functionality similar to that offered by our products is incorporated into existing network infrastructure products, organizations may decide against adding our products to their systems, which would have an adverse effect on our business.**

Large, well-established providers of networking equipment offer, and may continue to introduce, network security features that compete with our products, either in stand-alone security products or as additional features in their network infrastructure products. The inclusion of, or the announcement of an intent to include, functionality perceived to be similar to that offered by our security solutions in networking products that are already generally accepted as necessary components of network architecture may have an adverse effect on our ability to market and sell our products. Furthermore, even if the functionality offered by network infrastructure providers is more limited than our products, a significant number of end-customers may elect to accept such limited functionality in lieu of adding platforms from an additional vendor such as us. Many organizations have invested substantial personnel and financial resources to design and operate their networks and have established deep relationships with other providers of networking products, which may make them reluctant to add new components to their networks, particularly from other vendors such as us. In addition, an organization's existing vendors or new vendors with a broad product offering may be able to offer concessions that we are not able to match because we currently offer only network security products and have fewer resources than many of our competitors. If organizations are reluctant to add additional network infrastructure from new vendors or otherwise decide to work with their existing vendors, our ability to increase our market share and improve our financial condition and operating results will be adversely affected.

**If our products do not interoperate with our end-customers' infrastructure, sales of our products could be negatively affected, which would harm our business.**

Our products must interoperate with our end-customers' existing infrastructure, which often have different specifications, utilize multiple protocol standards, deploy products from multiple vendors, and contain multiple generations of products that have been added over time. As a result, when problems occur in a network, it may be difficult to identify the sources of these problems. Any delays in identifying the sources of problems or in providing necessary modifications to our software or hardware could have a negative impact on our reputation and our end-customers' satisfaction with our products, and our ability to sell products could be adversely affected. In addition, U.S. Government and other end-customers may require our products to comply with certain security or other certifications and standards. If our products are late in achieving or fail to achieve compliance with these certifications and standards, or our competitors achieve compliance with these certifications and standards, we may be disqualified from selling our products to such end-customers, or at a competitive disadvantage, which would harm our business,

If functionality similar to that offered by our products is incorporated into existing network infrastructure products, or

operating results, and financial condition.

**Defects, errors, or vulnerabilities in our products or the failure of our products to block a virus or prevent a security breach could harm our reputation and adversely impact our results of operations.**

Our products may experience technical failures and downtime, we may fail to distribute appropriate updates, or we may fail to meet the increased requirements of a growing end-customer base, any of which could temporarily or permanently expose our end-customers' networks, leaving their networks unprotected against the latest security threats.

Because our products are complex, they have contained and may contain design or manufacturing defects or errors that are not detected until after their commercial release and

S-37

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TABLE OF CONTENTS

deployment by our end-customers. Additionally, defects may cause our products to be vulnerable to security attacks, cause them to fail to help secure networks or temporarily interrupt end-customers' networking traffic. Moreover, because the techniques used by computer hackers to access or sabotage networks change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques and provide a solution in time to protect our end-customers' networks. Furthermore, our products could be targeted by attacks specifically designed to disrupt our business and harm our reputation.

Any defects, errors or vulnerabilities in our products could result in:

expenditure of significant financial and product development resources in efforts to analyze, correct, eliminate, or work-around errors or defects or to address and eliminate vulnerabilities;

loss of existing or potential customers;

delayed or lost revenue;

delay or failure to attain market acceptance; and

litigation, regulatory inquiries, or investigations that may be costly and harm our reputation.

**False detection of applications, viruses, spyware, vulnerability exploits, data patterns or URL categories could adversely affect our business.**

Our classifications of application type, virus, spyware, vulnerability exploits, data or URL categories may falsely detect applications, content or threats that do not actually exist. This risk is heightened by the inclusion of a heuristics feature in our products, which attempts to identify applications and other threats not based on any known signatures but based on characteristics or anomalies which indicate that a particular item may be a threat. These false positives, while typical in our industry, may impair the perceived reliability of our products and may therefore adversely impact market acceptance of our products. If our products restrict important files or applications based on falsely identifying them as malware or some other item that should be restricted, this could adversely affect end-customers' systems and cause material system failures. Any such false identification of important files or applications could result in damage to our reputation, negative publicity, loss of end-customers and sales, increased costs to remedy any problem, and costly litigation.

TABLE OF CONTENTS

## **USE OF PROCEEDS**

We estimate that the net proceeds from this offering will be approximately \$    million (or \$    million if the underwriters exercise their over-allotment option in full), after deducting the discounts, commissions and estimated expenses payable by us.

We intend to use approximately \$    million of the net proceeds of this offering to pay the cost of the capped call transactions that we expect to enter into, as described under    Description of Capped Call Transactions. If the underwriters exercise their over-allotment option, we may use a portion of the net proceeds from the sale of additional notes to fund our entry into additional capped call transactions.

We also intend to use the remaining net proceeds to repay the outstanding balances under our existing credit facility and for working capital, capital expenditures and other general corporate purposes, including potential acquisitions. As of March 31, 2014, the outstanding balances under our existing credit facility was \$85.25 million. Indebtedness under our existing credit facility bears cash interest at either selected LIBOR plus a specified margin based on the then existing senior leverage ratio (as defined in the credit agreement) or an alternative base rate plus a specified margin and matures on October 1, 2017. Certain of the underwriters and/or their affiliates are lenders under our existing credit facility and will receive a portion of the net proceeds from this offering. For more information, see    Underwriting (Conflicts of Interest)    Conflicts of Interest.

S-39

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TABLE OF CONTENTS**RATIO OF EARNINGS TO FIXED CHARGES**

The table below sets forth our ratio of earnings to fixed charges on a historical basis for the periods indicated. The information set forth in the table should be read in conjunction with the financial information incorporated by reference into this prospectus supplement.

	Three Months ended 3/31/2014	Twelve Months ended 12/31/2013	Twelve Months ended 12/31/2012	Twelve Months ended 12/31/2011	Twelve Months ended 12/31/2010	Twelve Months ended 12/31/2009
Interest expense	\$ 858,000	\$ 3,508,000	\$ 2,307,000	\$ 907,000	\$ 1,661,000	\$
Pre-tax Income (loss)	\$(4,745,000)	\$(19,639,000)	\$ 929,000	\$ 753,000	\$ 18,720,000	(3,092,000)
Total earnings	\$(3,887,000)	\$(16,131,000)	\$ 3,236,000	\$ 1,660,000	\$ 20,381,000	(3,092,000)
Ratio of earnings to fixed charges	(4.5 )	(4.6 )	1.4	1.8	12.3	N/A

The ratios are calculated by dividing earnings by fixed charges. For the purposes of computing the ratio of earnings to fixed charges, earnings consist of pretax income from continuing operations plus fixed charges. Total earnings is computed as pre-tax income (loss) adjusted for interest expense since fixed charges consist only of interest expense.

S-40

TABLE OF CONTENTS**CAPITALIZATION**

The following table sets forth our unaudited consolidated capitalization as of March 31, 2014. Our capitalization is presented:

on an actual basis; and

on an as adjusted basis to give effect to this offering and the concurrent entering into of the new revolving credit facility and the use of proceeds therefrom (assuming no exercise of the underwriters' over-allotment option and no draw-down under the new revolving credit facility).

You should read this table along with our consolidated financial statements and related notes and the other financial information incorporated by reference into this prospectus supplement.

	As of March 31, 2014	
	Actual	As Adjusted
	(dollars in thousands)	
	(unaudited)	
Cash, cash equivalents and investments <sup>(1)</sup>	\$64	\$20,500
Long-term debt, including current maturities:		
Revolver	\$24,000	\$
Term note - current portion	7,000	
Term note - non-current portion	54,250	
Notes offered hereby <sup>(2)(3)</sup>		125,000
New revolving credit facility		
Total long-term debt, including current maturities	85,250	125,000
Stockholders' equity:		
Preferred stock, \$0.001 par value; 5 million shares authorized, none issued		
Common stock, \$0.001 par value; 100 million shares authorized, 37,403,338 shares issued and outstanding <sup>(3)</sup>	37	37
Additional paid-in capital <sup>(1)(2)</sup>	304,669	304,669
Accumulated deficit <sup>(1)(2)</sup>	(5,433)	(5,433)
Total stockholders' equity <sup>(4)</sup>	299,273	299,273
Total capitalization <sup>(1)</sup>	\$384,523	\$424,273

- Does not include our entry into the capped call transactions, including our payment of approximately \$ million to
- (1) the option counterparties, as described under "Description of Capped Call Transactions," which will result in a reduction to our cash and cash equivalents, additional paid-in capital, stockholders' equity and total capitalization. In accordance with *Accounting Standards Codification ASC 470-20*, convertible debt that may be wholly or partially settled in cash must separately account for the liability and equity components in a manner that reflects the issuer's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. The amount presented does not reflect the debt discount that we will be required to recognize for the notes offered hereby.
- (2) Following the issuance of the notes, we will record a debt discount for the notes that will decrease total consolidated debt and increase additional paid-in capital. The debt component will accrete up to the principal amount over the expected term of the debt through a change to interest expense. ASC 470-20 does not affect the actual amount that we are required to pay.

S-41



TABLE OF CONTENTS

The table above assumes no exercise of the underwriters' option to purchase additional notes in this offering. In addition, the number of shares of our common stock in the actual and as adjusted columns in the table above excludes:

3,224,902 shares of our common stock issuable upon exercise of outstanding options issued under our stock option plans at prices ranging from \$5.00 to \$17.71 per share as of March 31, 2014;

4,304,986 shares of our common stock issuable upon exercise of outstanding warrants at prices ranging from \$4.00 to \$12.65 per share as of March 31, 2014; and

the shares of common stock reserved for issuance upon conversion of the notes being offered by us in this offering.

S-42

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TABLE OF CONTENTS**PRICE RANGE OF COMMON STOCK AND DIVIDENDS**

On October 1, 2010, our common stock began trading on the Nasdaq Global Select Market under the symbol KEYW. The following table sets forth the range of high and low intra-day sales prices of our common stock for the periods indicated.

	High	Low
Year Ended December 31, 2014:		
First Quarter	\$ 23.09	\$ 13.26
Second Quarter	\$ 19.71	\$ 9.71
Third Quarter (through July 14, 2014)	\$ 13.72	\$ 11.93
Year Ended December 31, 2013:		
First Quarter	\$ 16.45	\$ 10.88
Second Quarter	\$ 16.22	\$ 12.74
Third Quarter	\$ 13.86	\$ 10.82
Fourth Quarter	\$ 13.70	\$ 11.00
Year Ended December 31, 2012:		
First Quarter	\$ 7.94	\$ 7.00
Second Quarter	\$ 10.10	\$ 7.63
Third Quarter	\$ 14.38	\$ 9.64
Fourth Quarter	\$ 13.64	\$ 11.87

On July 14, 2014, the last reported sale price for our common stock on the Nasdaq Global Select Market was \$12.73 per share.

As of July 10, 2014, there were approximately 316 registered holders of record of our common stock. The number of holders of record does not reflect the number of beneficial holders whose shares are held by depositories, brokers or nominees.

**Dividends**

We have never declared or paid any cash dividends on our common stock. We currently intend to retain all available funds and any future earnings for use in the operation and expansion of our business and do not anticipate paying any cash dividends in the foreseeable future. In addition, our existing credit facility limits our ability to pay dividends in most circumstances.

TABLE OF CONTENTS

## DESCRIPTION OF NOTES

We will issue the notes under a base indenture dated as of July , 2014 between us and Wilmington Trust, National Association, as supplemented by a supplemental indenture with respect to the notes. In this section, we refer to the base indenture (the base indenture ), as supplemented by the supplemental indenture (the supplemental indenture ), collectively as the indenture. This description of the notes supplements and, to the extent it is inconsistent, replaces the description of the general provisions of the notes and the base indenture in the accompanying prospectus. The terms of the notes include those expressly set forth in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939, as amended (the Trust Indenture Act ).

You may request a copy of the indenture from us as described under Where You Can Find More Information.

The following description is a summary of the material provisions of the notes and the indenture and does not purport to be complete. This summary is subject to and is qualified by reference to all the provisions of the notes and the indenture, including the definitions of certain terms used in the indenture. We urge you to read these documents because they, and not this description, define your rights as a holder of the notes.

For purposes of this description, references to we, our and us refer only to The KEYW Holding Corporation and not to its subsidiaries.

### General

The notes will:

be our general unsecured, senior obligations;  
initially be limited to an aggregate principal amount of \$125,000,000 (or \$143,750,000 if the underwriters over-allotment option is exercised in full);  
bear cash interest from July , 2014 at an annual rate of % payable on January 15 and July 15 of each year, beginning on January 15, 2015;

not be redeemable prior to maturity;  
be subject to repurchase by us at the option of the holders following a fundamental change (as defined below under Fundamental Change Permits Holders to Require Us to Repurchase Notes ), at a fundamental change repurchase price equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date;

mature on July 15, 2019, unless earlier converted or repurchased;  
be issued in minimum denominations of \$1,000 and integral multiples of \$1,000 in excess thereof; and  
be represented by one or more registered notes in global form, but in certain limited circumstances may be represented by notes in definitive form. See Book-entry, Settlement and Clearance.

Subject to satisfaction of certain conditions and during the periods described below, the notes may be converted at an initial conversion rate of shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$ per share of common stock). The conversion rate is subject to adjustment if certain events occur.

We will settle conversions of notes by paying or delivering, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, as described under Conversion Rights Settlement upon Conversion. You will not receive any separate cash payment for interest, if any, accrued and

unpaid to the conversion date except under the limited circumstances described below.

The indenture does not limit the amount of debt that may be issued by us or our subsidiaries under the indenture or otherwise. The indenture does not contain any financial covenants and does not restrict us from

S-44

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## TABLE OF CONTENTS

paying dividends or issuing or repurchasing our other securities. Other than restrictions described under Fundamental Change Permits Holders to Require Us to Repurchase Notes and Consolidation, Merger and Sale of Assets below and except for the provisions set forth under Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off, the indenture does not contain any covenants or other provisions designed to afford holders of the notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in our credit rating as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders.

We may, without the consent of the holders, reopen the indenture for the notes and issue additional notes under the indenture with the same terms as the notes offered hereby (other than differences in the issue price and interest accrued prior to the issue date of such additional notes) in an unlimited aggregate principal amount; *provided* that if any such additional notes are not fungible with the notes initially offered hereby for U.S. federal securities law and federal income tax purposes, such additional notes will have a separate CUSIP number.

We do not intend to list the notes on any securities exchange or any automated dealer quotation system.

## **Purchase and Cancellation**

We will cause all notes surrendered for payment, repurchase (including as described below), registration of transfer or exchange or conversion, if surrendered to any person other than the trustee (including any of our agents, subsidiaries or affiliates), to be delivered to the trustee for cancellation. All notes delivered to the trustee shall be cancelled promptly by the trustee. Except for notes surrendered for registration of transfer or exchange, no notes shall be authenticated in exchange for any notes cancelled as provided in the indenture.

We may, to the extent permitted by law, and directly or indirectly (regardless of whether such notes are surrendered to us), repurchase notes in the open market or otherwise, whether by us or our subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives. We will cause any notes so repurchased (other than notes repurchased pursuant to cash-settled swaps or other derivatives) to be surrendered to the trustee for cancellation, and they will no longer be considered outstanding under the indenture upon their repurchase.

## **Payments on the Notes; Paying Agent and Registrar; Transfer and Exchange**

We will pay the principal of, and interest on, notes in global form registered in the name of or held by The Depository Trust Company ( DTC ) or its nominee by wire transfer in immediately available funds to DTC or its nominee, as the case may be, as the registered holder of such global note.

We will pay the principal of any certificated notes at the office or agency designated by us for that purpose. We have initially designated the trustee as our paying agent and registrar and its agency in New York, New York as a place where notes may be presented for payment or for registration of transfer. We may, however, change the paying agent or registrar without prior notice to the holders of the notes, and we may act as paying agent or registrar. Interest on certificated notes will be payable (i) to holders having an aggregate principal amount of \$2,000,000 or less, by check mailed to the holders of these notes and (ii) to holders having an aggregate principal amount of more than \$2,000,000, either by check mailed to each holder or, upon application by such a holder to the registrar not later than the relevant regular record date, by wire transfer in immediately available funds to that holder's account within the United States,

which application shall remain in effect until the holder notifies, in writing, the registrar to the contrary.

A holder of notes may transfer or exchange notes at the office of the registrar in accordance with the indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents. No service charge will be imposed by us, the trustee or the registrar for any registration of transfer or exchange of notes, but we may require a holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required by law or permitted by the indenture. We are not required to transfer or exchange any note surrendered for conversion or required repurchase.

The registered holder of a note will be treated as its owner for all purposes.

S-45

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## TABLE OF CONTENTS

### **Interest**

The notes will bear cash interest at a rate of % per year until maturity. Interest on the notes will accrue from July , 2014 or from the most recent date on which interest has been paid or duly provided for. Interest will be payable semiannually in arrears on January 15 and July 15 of each year, beginning on January 15, 2015.

Interest will be paid to the person in whose name a note is registered at the close of business on January 1 or July 1, as the case may be, immediately preceding the relevant interest payment date (each, a regular record date ). Interest on the notes will be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

If any interest payment date, the maturity date or any earlier required repurchase date upon a fundamental change of a note falls on a day that is not a business day, the required payment will be made on the next succeeding business day and no interest on such payment will accrue in respect of the delay. The term business day means, with respect to any note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Unless the context otherwise requires, all references to interest in this prospectus supplement include additional interest, if any, payable at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under Events of Default.

### **Ranking**

The notes will be our general unsecured obligations that rank senior in right of payment to all of our indebtedness that is expressly subordinated in right of payment to the notes. The notes will rank equal in right of payment with all of our liabilities that are not so subordinated. The notes will effectively rank junior to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure secured debt will be available to pay obligations on the notes only after all indebtedness under such secured debt has been repaid in full from such assets. The notes will rank structurally junior to all indebtedness and other liabilities of our subsidiaries (including trade payables but excluding intercompany obligations and liabilities of a type not required to be reflected on a balance sheet of such subsidiaries in accordance with GAAP). We advise you that there may not be sufficient assets remaining to pay amounts due on any or all the notes then outstanding.

As of March 31, 2014, our total consolidated indebtedness was \$85.25 million, all of which was secured indebtedness of our subsidiary, The KEYW Corporation, to which the notes would have been structurally subordinated. After giving effect to the issuance of the notes (assuming no exercise of the underwriters over-allotment option and no draw-down under the new revolving credit facility) and the use of proceeds therefrom and the concurrent refinancing of the existing credit facility, our total consolidated indebtedness would have been \$125.0 million, consisting of the notes offered in this offering.

### **No Redemption**

We may not redeem the notes prior to the maturity date, and no sinking fund is provided for the notes, which means that we are not required to redeem or retire the notes periodically.

# Conversion Rights

## General

Prior to the close of business on the business day immediately preceding January 15, 2019, the notes will be convertible only upon satisfaction of one or more of the conditions described under the headings Conversion upon Satisfaction of Sale Price Condition, Conversion upon Satisfaction of Trading Price Condition, Conversion upon Specified Corporate Events and Conversion upon Hexis Spin-off. On or after January 15, 2019 until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their notes at the conversion rate at any

S-46

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TABLE OF CONTENTS

time irrespective of the foregoing conditions. Neither the trustee nor the conversion agent (if other than the trustee) shall have any duty to determine or verify our determination of whether any of the conditions to conversion have been satisfied.

The conversion rate will initially be shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$ per share of common stock). Upon conversion of a note, we will satisfy our conversion obligation by paying or delivering, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, all as set forth below under Settlement upon Conversion. If we satisfy our conversion obligation solely in cash or through payment and delivery, as the case may be, of a combination of cash and shares of our common stock, the amount of cash and shares of common stock, if any, due upon conversion will be based on a daily conversion value (as defined below) calculated on a proportionate basis for each trading day in a 60 trading day observation period (as defined below under Settlement upon Conversion ). The trustee will initially act as the conversion agent.

A holder may convert fewer than all of such holder's notes so long as the notes converted are a multiple of \$1,000 principal amount.

Upon conversion, you will not receive any separate cash payment for accrued and unpaid interest, if any, except as described below. We will not issue fractional shares of our common stock upon conversion of notes. Instead, we will pay cash in lieu of delivering any fractional share as described under Settlement upon Conversion. Our payment and delivery, as the case may be, to you of the cash, shares of our common stock or a combination thereof, as the case may be, into which a note is convertible will be deemed to satisfy in full our obligation to pay:

the principal amount of the note; and  
accrued and unpaid interest, if any, to, but not including, the relevant conversion date.

As a result, accrued and unpaid interest, if any, to, but not including, the relevant conversion date will be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of notes into a combination of cash and shares of our common stock, accrued and unpaid interest will be deemed to be paid first out of the cash paid upon such conversion.

Notwithstanding the immediately preceding paragraph, if notes are converted after 5:00 p.m., New York City time, on a regular record date for the payment of interest, holders of such notes at 5:00 p.m., New York City time, on such regular record date will receive the full amount of interest payable on such notes on the corresponding interest payment date notwithstanding the conversion. Notes surrendered for conversion during the period from 5:00 p.m., New York City time, on any regular record date to 9:00 a.m., New York City time, on the immediately following interest payment date must be accompanied by funds equal to the amount of interest payable on the notes so converted; provided that no such payment need be made:

for conversions following the regular record date immediately preceding the maturity date;  
if the Hexis spin-off final conversion date (as defined under Conversion upon Hexis Spin-off ) occurs after a regular record date and on or prior to the business day immediately following the date on which the corresponding interest payment is made;

if we have specified a fundamental change repurchase date that is after a regular record date and on or prior to the business day immediately following the date on which the corresponding interest payment is made; or  
to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such note.

Therefore, for the avoidance of doubt, all record holders on the regular record date immediately preceding the maturity date will receive the full interest payment due on the maturity date regardless of whether their notes have been converted following such regular record date.





## TABLE OF CONTENTS

If a holder converts notes, we will pay any documentary, stamp or similar issue or transfer tax due on any issuance of any shares of our common stock upon the conversion, unless the tax is due because the holder requests such shares to be issued in a name other than the holder's name, in which case the holder will pay that tax.

Holders may surrender their notes for conversion under the following circumstances:

### **Conversion upon Satisfaction of Sale Price Condition**

Prior to the close of business on the business day immediately preceding January 15, 2019, a holder may surrender all or any portion of its notes for conversion at any time during any calendar quarter (and only during such calendar quarter) commencing after the calendar quarter ending on September 30, 2014, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day. If the sale price condition has been met, we will so notify, the holders, the trustee and the conversion agent (if other than the trustee).

As determined by us, the last reported sale price of our common stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which our common stock is traded. If our common stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the last reported sale price will be the last quoted bid price for our common stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If our common stock is not so quoted, the last reported sale price will be the average of the mid-point of the last bid and ask prices for our common stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by us for this purpose.

Trading day means a day on which (i) trading in our common stock (or other security for which a closing sale price must be determined) generally occurs on The NASDAQ Global Select Market or, if our common stock (or such other security) is not then listed on The NASDAQ Global Select Market, on the principal other U.S. national or regional securities exchange on which our common stock (or such other security) is then listed or, if our common stock (or such other security) is not then listed on a U.S. national or regional securities exchange, on the principal other market on which our common stock (or such other security) is then traded, and (ii) a last reported sale price for our common stock (or closing sale price for such other security) is available on such securities exchange or market. If our common stock (or such other security) is not so listed or traded, trading day means a business day.

### **Conversion upon Satisfaction of Trading Price Condition**

Prior to the close of business on the business day immediately preceding January 15, 2019, a holder of notes may surrender all or any portion of its notes for conversion at any time during the five business day period after any five consecutive trading day period (the measurement period) in which the trading price per \$1,000 principal amount of notes, as determined following a request by a holder of notes in accordance with the procedures described below, for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day.

The trading price of the notes on any date of determination means the average of the secondary market bid quotations obtained by the bid solicitation agent for \$2,000,000 principal amount of notes at approximately 3:30 p.m., New York

City time, on such determination date from three independent nationally recognized securities dealers we select for this purpose; *provided* that if three such bids cannot reasonably be obtained by the bid solicitation agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the bid solicitation agent, that one bid shall be used. If the bid solicitation agent cannot reasonably obtain at least one bid for \$2,000,000 principal amount of notes from a nationally recognized securities dealer, then the trading price per \$1,000 principal amount of notes will be deemed to be less than 98% of the product of the last reported sale price of our common stock

S-48

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## TABLE OF CONTENTS

and the conversion rate. If (x) we are not acting as bid solicitation agent, and we do not, when we are required to, instruct the bid solicitation agent to obtain bids, or if we give such instruction to the bid solicitation agent, and the bid solicitation agent fails to make such determination, or (y) we are acting as bid solicitation agent and we fail to make such determination, then, in either case, the trading price per \$1,000 principal amount of notes will be deemed to be less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each trading day of such failure. At such time as we direct the bid solicitation agent in writing to solicit bid quotations we will provide the bid solicitation agent with the names and contact details of the three independent nationally recognized securities dealers we select, and we will direct those security dealers to provide bids to the bid solicitation agent (if other than us).

The bid solicitation agent (if other than us) shall have no obligation to determine the trading price per \$1,000 principal amount of notes unless we have requested such determination; and we shall have no obligation to make such request (or, if we are acting as bid solicitation agent, we shall have no obligation to determine the trading price) unless a holder of a note provides us with reasonable evidence that the trading price per \$1,000 principal amount of notes would be less than 98% of the product of the last reported sale price of our common stock and the conversion rate. At such time, we shall instruct the bid solicitation agent (if other than us) to determine, or if we are acting as bid solicitation agent, we shall determine, the trading price per \$1,000 principal amount of notes beginning on the next trading day and on each successive trading day until the trading price per \$1,000 principal amount of notes is greater than or equal to 98% of the product of the last reported sale price of our common stock and the conversion rate. If the trading price condition has been met, we will so notify the holders, the trustee and the conversion agent (if other than the trustee). If, at any time after the trading price condition has been met, the trading price per \$1,000 principal amount of notes is greater than or equal to 98% of the product of the last reported sale price of our common stock and the conversion rate for such date, we will so notify the holders, the trustee and the conversion agent (if other than the trustee). The trustee will initially act as the bid solicitation agent.

## **Conversion upon Specified Corporate Events**

### **Certain Distributions**

If, prior to the close of business on the business day immediately preceding January 15, 2019, we elect to:

issue to all or substantially all holders of our common stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of our common stock at a price per share that is less than the average of the last reported sale prices of our common stock for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance; or distribute to all or substantially all holders of our common stock our assets, securities or rights to purchase our securities, which distribution has a per share value, as reasonably determined by our board of directors or a committee thereof, exceeding 10% of the average of the last reported sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement for such distribution (other than in connection with the Hexis spin-off (as defined under Conversion upon Hexis Spin-off below)),

then, in either case, we must notify the holders of the notes, the trustee and the conversion agent (if other than the trustee) at least 70 scheduled trading days prior to the ex-dividend date for such issuance or distribution. Once we have given such notice, holders may surrender all or any portion of their notes for conversion at any time until the earlier of 5:00 p.m., New York City time, on the business day immediately preceding the ex-dividend date for such issuance or distribution and our announcement that such issuance or distribution will not take place, even if the notes

are not otherwise convertible at such time.

S-49

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TABLE OF CONTENTS

**Certain Corporate Events**

If a transaction or event that constitutes a fundamental change (as defined under Fundamental Change Permits Holders to Require Us to Repurchase Notes ) or a make-whole fundamental change (as defined under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off ) occurs prior to the close of business on the business day immediately preceding January 15, 2019, regardless of whether a holder has the right to require us to repurchase the notes as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes, or if we are a party to a share exchange event (as defined under Recapitalizations, Reclassifications and Changes of Our Common Stock ) (each such fundamental change, make-whole fundamental change or share exchange event, a corporate event ), all or any portion of a holder's notes may be surrendered for conversion at any time from or after the date that is 70 scheduled trading days prior to the anticipated effective date of the corporate event (or, if later, the business day after we give notice of such corporate event) until 35 trading days after the actual effective date of such corporate event or, if such corporate event also constitutes a fundamental change, until the related fundamental change repurchase date. We will notify holders, the trustee and the conversion agent (if other than the trustee) (i) as promptly as practicable following the date we publicly announce such corporate event but in no event less than 70 scheduled trading days prior to the anticipated effective date of such corporate event; or (ii) if we do not have knowledge of such corporate event at least 70 scheduled trading days prior to the anticipated effective date of such corporate event, within one business day of the date upon which we receive notice, or otherwise become aware, of such corporate event, but in no event later than the actual effective date of such corporate event.

**Conversion upon Hexis Spin-off**

If we deliver notice to holders of notes, the trustee and the conversion agent of the record date of the spin-off (each, as defined under Conversion Rate Adjustments below) of Hexis Cyber Solutions, Inc. (or any successor subsidiary of ours thereof) ( Hexis ) that is prior to the maturity date of the notes (such spin-off, the Hexis spin-off ), then all or any portion of a holder's notes may be surrendered for conversion at any time during the 10 scheduled trading day period beginning on, and including, the scheduled trading day immediately succeeding the date we deliver such notice (the Hexis spin-off conversion period and the final scheduled trading day of such period, the Hexis spin-off final conversion date ), even if the notes are not otherwise convertible at such time. We will notify holders, the trustee and the conversion agent no less than 77 scheduled trading days prior to the anticipated record date of any Hexis spin-off.

Such notice shall include, among other things:

- a brief description of the Hexis spin-off;
- the anticipated record date for the Hexis spin-off;
- the Hexis spin-off conversion period and the Hexis spin-off final conversion date;
- the conversion rate in effect and that any notes converted in connection with the Hexis spin-off are entitled to an increase in the conversion rate as described under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off ; and

- the settlement method we have selected, if any, for all notes converted in connection with the Hexis spin-off.

If, for any reason (including, without limitation, the occurrence of one or more market disruption events), holders that convert their notes during the Hexis spin-off conversion period would not receive the consideration due upon conversion before the close of business on the fourth scheduled trading day immediately preceding the record date of the Hexis spin-off, then we will postpone the record date of the Hexis spin-off to be no earlier than the fourth scheduled trading day following the date such holders receive the consideration due upon conversion.



TABLE OF CONTENTS

**Conversions on or after January 15, 2019**

On or after January 15, 2019, a holder may convert all or any portion of its notes at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date regardless of the foregoing conditions.

**Conversion Procedures**

If you hold a beneficial interest in a global note, to convert you must comply with DTC's procedures for converting a beneficial interest in a global note and, if required, pay funds equal to interest payable on the next interest payment date to which you are not entitled and any taxes payable as described below.

If you hold a certificated note, to convert you must:

complete and manually sign the conversion notice on the back of the note, or a facsimile of the conversion notice;  
deliver the conversion notice, which is irrevocable, and the note to the conversion agent;  
if required, furnish appropriate endorsements and transfer documents; and  
if required, pay funds equal to interest payable on the next interest payment date to which you are not entitled and any taxes payable as described below.

We will pay any documentary, stamp or similar issue or transfer tax on the issuance of any shares of our common stock upon conversion of the notes, unless the tax is due because the holder requests such shares to be issued in a name other than the holder's name, in which case the holder will pay the tax.

We refer to the date you comply with the relevant procedures for conversion described above as the conversion date. The notes will be deemed to have been converted immediately prior to the close of business on the conversion date; *provided*, however, that the person in whose name any shares of our common stock shall be issuable upon such conversion will become the holder of record of such shares as of the close of business on the conversion date (in the case of physical settlement where the notes are converted on or prior to the close of business on the business day immediately preceding the regular record date immediately preceding the maturity date), the second scheduled trading day immediately preceding the maturity date (in the case of physical settlement where the notes are converted after the close of business on the business day immediately preceding the regular record date immediately preceding the maturity date) or the last trading day of the relevant observation period (in the case of combination settlement).

If a holder has already delivered a repurchase notice as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes with respect to a note, the holder may not surrender that note for conversion until the holder has withdrawn the repurchase notice in accordance with the relevant provisions of the indenture. If a holder submits its notes for required repurchase, the holder's right to withdraw the repurchase notice and convert the notes that are subject to repurchase will terminate at the close of business on the business day immediately preceding the relevant fundamental change repurchase date.

**Settlement upon Conversion**

Upon conversion, we may choose to pay or deliver, as the case may be, either cash ( cash settlement ), shares of our common stock ( physical settlement ) or a combination of cash and shares of our common stock ( combination settlement ), as described below. We refer to each of these settlement methods as a settlement method.



All conversions for which the relevant conversion date occurs on or after January 15, 2019, and all conversions for which the relevant conversion date occurs during the Hexis spin-off conversion period will be settled using the same settlement method. Except for any conversions for which the relevant conversion date occurs during the Hexis spin-off conversion period, and any conversions for which the relevant conversion date occurs on or after January 15, 2019, we will use the same settlement method for all conversions with the same conversion date, but we will not have any obligation to use the same settlement method with respect to conversions with different conversion dates. That is, we may choose for notes converted on one conversion date to settle conversions in physical settlement, and choose for notes converted on another conversion date cash settlement or combination settlement.

S-51

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TABLE OF CONTENTS

If we elect a settlement method, we will inform holders so converting in writing with a copy to the trustee and the conversion agent (if other than the trustee) of the settlement method we have selected no later than the close of business on the trading day immediately following the related conversion date (or in the case of any conversions for which the relevant conversion date occurs (i) subject to clause (ii), during the Hexis spin-off conversion period, in the related notice of the Hexis spin-off or (ii) on or after January 15, 2019, no later than January 15, 2019). If we do not timely elect a settlement method, we will no longer have the right to elect cash settlement or physical settlement and we will be deemed to have elected combination settlement in respect of our conversion obligation, as described below, and the specified dollar amount (as defined below) per \$1,000 principal amount of notes will be equal to \$1,000. If we elect combination settlement, but we do not timely notify converting holders of the specified dollar amount per \$1,000 principal amount of notes, such specified dollar amount will be deemed to be \$1,000. It is our current intent and policy to settle conversions through combination settlement with a specified dollar amount per \$1,000 principal amount of notes of \$1,000.

Settlement amounts will be computed as follows:

if we elect physical settlement, we will deliver to the converting holder in respect of each \$1,000 principal amount of notes being converted a number of shares of common stock equal to the conversion rate;

if we elect cash settlement, we will pay to the converting holder in respect of each \$1,000 principal amount of notes being converted cash in an amount equal to the sum of the daily conversion values for each of the 60 consecutive trading days during the related observation period; and

if we elect (or are deemed to have elected) combination settlement, we will pay or deliver, as the case may be, to the converting holder in respect of each \$1,000 principal amount of notes being converted a settlement amount equal to the sum of the daily settlement amounts for each of the 60 consecutive trading days during the related observation period.

The daily settlement amount, for each of the 60 consecutive trading days during the observation period, shall consist of:

cash equal to the lesser of (i) the maximum cash amount per \$1,000 principal amount of notes to be received upon conversion as specified in the notice specifying our chosen settlement method (the specified dollar amount), if any, divided by 60 (such quotient, the daily measurement value) and (ii) the daily conversion value on such trading day; and

if the daily conversion value on such trading day exceeds the daily measurement value, a number of shares equal to (i) the difference between the daily conversion value and the daily measurement value, divided by (ii) the daily VWAP for such trading day.

The daily conversion value means, for each of the 60 consecutive trading days during the observation period, one-sixtieth (1/60<sup>th</sup>) of the product of (1) the conversion rate on such trading day and (2) the daily VWAP for such trading day.

The daily VWAP means, for each of the 60 consecutive trading days during the relevant observation period and for each trading day in the Hexis IPO valuation period (as defined under Conversion rate adjustments below), the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg page KEYW <equity> AQR (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such trading day (or if such volume-weighted average price is unavailable, the market value of one share of our common stock on such trading day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by us). The daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.



TABLE OF CONTENTS

The observation period with respect to any note surrendered for conversion means:

subject to the immediately succeeding bullet, if the relevant conversion date occurs prior to January 15, 2019, the 60 consecutive trading day period beginning on, and including, the second trading day immediately succeeding such conversion date;

if the relevant conversion date occurs during the Hexis spin-off conversion period, the 60 consecutive trading days beginning on, and including, the trading day immediately succeeding the Hexis spin-off final conversion date; and subject to the immediately preceding bullet, if the relevant conversion date occurs on or after January 15, 2019, the 60 consecutive trading days beginning on, and including, the 62<sup>nd</sup> scheduled trading day immediately preceding the maturity date.

For the purposes of determining amounts due upon conversion only, trading day means a day on which (i) there is no market disruption event (as defined below) and (ii) trading in our common stock generally occurs on The NASDAQ Global Select Market or, if our common stock is not then listed on The NASDAQ Global Select Market, on the principal other U.S. national or regional securities exchange on which our common stock is then listed or, if our common stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which our common stock is then listed or admitted for trading. If our common stock is not so listed or admitted for trading, trading day means a business day.

Scheduled trading day means a day that is scheduled to be a trading day on the principal U.S. national or regional securities exchange or market on which our common stock is listed or admitted for trading. If our common stock is not so listed or admitted for trading, scheduled trading day means a business day.

For the purposes of determining amounts due upon conversion, market disruption event means (i) a failure by the primary U.S. national or regional securities exchange or market on which our common stock is listed or admitted for trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any scheduled trading day for our common stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in our common stock or in any options contracts or futures contracts relating to our common stock.

Except as described under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off and Recapitalizations, Reclassifications and Changes of Our Common Stock, we will deliver the consideration due in respect of conversion on the third business day immediately following the relevant conversion date, if we elect physical settlement (*provided* that for any notes converted after the close of business on the regular record date immediately preceding the maturity date, we will deliver the consideration due in respect of conversion on the maturity date), or on the third business day immediately following the last trading day of the relevant observation period, in the case of any other settlement method.

We will pay cash in lieu of delivering any fractional share of common stock issuable upon conversion based on the daily VWAP for the relevant conversion date (in the case of physical settlement) or based on the daily VWAP for the last trading day of the relevant observation period (in the case of combination settlement).

TABLE OF CONTENTS**Conversion Rate Adjustments**

The conversion rate will be adjusted as described below, except that we will not make any adjustments to the conversion rate if holders of the notes participate (other than in the case of (x) a share split or share combination, (y) a tender or exchange offer or (z) the Hexis IPO (as defined below)), at the same time and upon the same terms as holders of our common stock and solely as a result of holding the notes, in any of the transactions described below without having to convert their notes as if they held a number of shares of common stock equal to the conversion rate, *multiplied by the principal amount (expressed in thousands) of notes held by such holder.*

- (1) If we exclusively issue shares of our common stock as a dividend or distribution on shares of our common stock, or if we effect a share split or share combination, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the open of business on the ex-dividend date of such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as applicable;

$CR_1$  = the conversion rate in effect immediately after the open of business on such ex-dividend date or effective date;

$OS_0$  = the number of shares of our common stock outstanding immediately prior to the open of business on such ex-dividend date or effective date; and

$OS_1$  = the number of shares of our common stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this clause (1) shall become effective immediately after the open of business on the ex-dividend date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this clause (1) is declared but not so paid or made, the conversion rate shall be immediately readjusted, effective as of the date our board of directors or a committee thereof determines not to pay such dividend or distribution, to the conversion rate that would then be in effect if such dividend or distribution had not been declared.

- (2) If we issue to all or substantially all holders of our common stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of our common stock at a price per share that is less than the average of the last reported sale prices of our common stock for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such

issuance;

$CR_1 =$  the conversion rate in effect immediately after the open of business on such ex-dividend date;  
 $OS_0 =$  the number of shares of our common stock outstanding immediately prior to the open of business on such ex-dividend date;

S-54

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TABLE OF CONTENTS

X = the total number of shares of our common stock issuable pursuant to such rights, options or warrants; and the number of shares of our common stock equal to the aggregate price payable to exercise such rights, options or Y warrants, *divided by* the average of the last reported sale prices of our common stock over the 10 consecutive = trading day period ending on, and including, the trading day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

Any increase made under this clause (2) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the open of business on the ex-dividend date for such issuance. To the extent that shares of common stock are not delivered after the expiration of such rights, options or warrants, the conversion rate shall be decreased to the conversion rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of common stock actually delivered. If such rights, options or warrants are not so issued, the conversion rate shall be decreased to the conversion rate that would then be in effect if such ex-dividend date for such issuance had not occurred.

For the purpose of this clause (2) and for the purpose of the first bullet point under Conversion upon Specified Corporate Events Certain Distributions, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the common stock at less than such average of the last reported sale prices for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of common stock, there shall be taken into account any consideration received by us for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by our board of directors or a committee thereof.

If we distribute shares of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, (3) options or warrants to acquire our capital stock or other securities, to all or substantially all holders of our common stock, excluding:

dividends, distributions or issuances as to which an adjustment was effected pursuant to clause (1) or (2) above; dividends or distributions paid exclusively in cash as to which an adjustment was effected pursuant to clause (5) below; and

spin-offs as to which the provisions set forth below in this clause (3) shall apply; then the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 + FMV}$$

where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such distribution;

CR<sub>1</sub> = the conversion rate in effect immediately after the open of business on such ex-dividend date; SP<sub>0</sub> the average of the last reported sale prices of our common stock over the 10 consecutive trading day period = ending on, and including, the trading day immediately preceding the ex-dividend date for such distribution; and FMV the fair market value (as determined by our board of directors or a committee thereof) of the shares of capital = stock, evidences of indebtedness, assets, property, rights, options or warrants distributed with respect to each = outstanding share of our common stock on the ex-dividend date for such distribution.

S-55

TABLE OF CONTENTS

Any increase made under the portion of this clause (3) above will become effective immediately after the open of business on the ex-dividend date for such distribution. If such distribution is not so paid or made, the conversion rate shall be decreased to be the conversion rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if FMV (as defined above) is equal to or greater than  $0$  SPs (as defined above), in lieu of the foregoing increase, each holder of a note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of our common stock, the amount and kind of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities that such holder would have received if such holder owned a number of shares of common stock equal to the conversion rate in effect on the ex-dividend date for the distribution.

With respect to an adjustment pursuant to this clause (3) where there has been a payment of a dividend or other distribution on our common stock of shares of capital stock of any class or series, or similar equity interest, of or relating to a subsidiary or other business unit, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange, which we refer to as a spin-off (which term includes the Hexis spin-off), the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the end of the valuation period (as defined below);  
 $CR_1$  = the conversion rate in effect immediately after the end of the valuation period;  
 the average of the last reported sale prices of the capital stock or similar equity interest distributed to holders of our common stock applicable to one share of our common stock (determined by reference to the definition of  $FMV_0$  last reported sale price set forth under Conversion upon Satisfaction of Sale Price Condition as if references therein to our common stock were to such capital stock or similar equity interest) over the first 10 consecutive trading day period after, and including, the ex-dividend date of the spin-off (the valuation period ); and  
 $MP_0$  = the average of the last reported sale prices of our common stock over the valuation period.

The increase to the conversion rate under the preceding paragraph will occur on the last trading day of the valuation period; *provided* that in respect of any conversion of notes during the valuation period, references in the preceding paragraph with respect to 10 trading days shall be deemed to be replaced with such lesser number of trading days as have elapsed from, and including, the ex-dividend date of such spin-off to and including the conversion date in determining the conversion rate. If the ex-dividend date of the spin-off is after the 10<sup>th</sup> trading day immediately preceding, and including, the end of any observation period in respect of a conversion of notes, references in the preceding paragraph to 10 trading days will be deemed to be replaced, solely in respect of that conversion, with such lesser number of trading days as have elapsed from, and including, the ex-dividend date for the spin-off to, and including, the last trading day of such observation period.

(4) If the initial public offering of Hexis (the Hexis IPO ) occurs, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \left( 1 + DF \times \frac{SP_H \times OS_H}{SP_K \times OS_K} \right)$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the end of the Hexis IPO valuation period;



$CR_1 =$  the conversion rate in effect immediately after the end of the Hexis IPO valuation period;  
 $DF =$  the discount factor of 10%;

S-56

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TABLE OF CONTENTS

$SP_H$  = the average of the Hexis daily VWAP (as defined below) over the first 5 consecutive trading day period after, and including, the date the Hexis IPO is priced to the public (the Hexis IPO valuation period );

$OS_H$  = the number of shares of Hexis common stock held by us and our subsidiaries (other than Hexis) immediately preceding the closing of the Hexis IPO;

$SP_K$  = the average of the daily VWAP of our common stock over the Hexis IPO valuation period; and

$OS_K$  = the number of shares of our common stock outstanding at the end of the Hexis IPO valuation period.

Any increase to the conversion rate made under this clause (4) will occur on the last trading day of the Hexis IPO valuation period; *provided* that in respect of any conversion of notes during the Hexis IPO valuation period, references in the preceding paragraph to 5 trading days will be deemed replaced with such lesser number of trading days as have elapsed from, and including, the date the Hexis IPO is priced to the public to and including the conversion date in determining the conversion rate. In addition, if the date the Hexis IPO is priced to the public is after the 5<sup>th</sup> trading day immediately preceding, and including, the end of any observation period in respect of a conversion of notes, references in the preceding paragraph to 5 trading days will be deemed to be replaced, solely in respect of that conversion, with such lesser number of trading days as have elapsed from, and including, the date the Hexis IPO is priced to the public to, and including, the last trading day of such observation period. If the Hexis IPO not consummated, the conversion rate will be decreased, effective as of the date we publicly announce that the Hexis IPO will not be consummated, to be the conversion rate that would then be in effect if the Hexis IPO had not been priced to the public.

The Hexis daily VWAP means, for each trading day in the Hexis IPO valuation period, the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on the Bloomberg page for Hexis common stock (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such trading day (or if such volume-weighted average price is unavailable, the market value of one share of Hexis common stock on such trading day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by us). The Hexis daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

For the purposes of determining the increase to the conversion rate pursuant to this clause (4) only, trading day means a day on which (i) there is no market disruption event (as defined below), (ii) trading in our common stock generally occurs on The NASDAQ Global Select Market or, if our common stock is not then listed on The NASDAQ Global Select Market, on the principal other U.S. national or regional securities exchange on which our common stock is then listed or, if our common stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which our common stock is then listed or admitted for trading and (iii) trading in Hexis common stock generally occurs on the principal U.S. national or regional securities exchange on which Hexis common stock is then listed or, if Hexis common stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which Hexis common stock is then listed or admitted for trading. If either our common stock or the Hexis common stock is not so listed or admitted for trading, trading day means a business day.

For the purposes of determining the increase to the conversion rate pursuant to this clause (4) only, market disruption event means (i) a failure by the primary U.S. national or regional securities exchange or market on which our common stock or the Hexis common stock is listed or admitted for trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any scheduled trading day for our common stock or the Hexis common stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in our common stock or the Hexis common stock, as the case may be, or in any options contracts or futures contracts relating to our common stock or the Hexis common stock, as the case may be.



TABLE OF CONTENTS

- (5) If any cash dividend or distribution is made to all or substantially all holders of our common stock, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 + C}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such dividend or distribution;

$CR_1$  = the conversion rate in effect immediately after the open of business on the ex-dividend date for such dividend or distribution;

$SP_0$  = the last reported sale price of our common stock on the trading day immediately preceding the ex-dividend date for such dividend or distribution; and

$C$  = the amount in cash per share we distribute to all or substantially all holders of our common stock.

Any increase made under this clause (5) shall become effective immediately after the open of business on the ex-dividend date for such dividend or distribution. If such dividend or distribution is not so paid, the conversion rate shall be decreased, effective as of the date our board of directors or a committee thereof determines not to make or pay such dividend or distribution, to be the conversion rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if  $C$  (as defined above) is equal to or greater than  $SP_0$  (as defined above), in lieu of the foregoing increase, each holder of a note shall receive, for each \$1,000 principal amount of notes, at the same time and upon the same terms as holders of shares of our common stock, the amount of cash that such holder would have received if such holder owned a number of shares of our common stock equal to the conversion rate on the ex-dividend date for such cash dividend or distribution.

- If we or any of our subsidiaries make a payment in respect of a tender or exchange offer for our common stock, to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the average of the last reported sale prices of our common stock over the 10 consecutive trading day period commencing on, and including, the trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the conversion rate will be increased based on the following formula:
- (6)

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the close of business on the 10<sup>th</sup> trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires;

$CR_1$  = the conversion rate in effect immediately after the close of business on the 10<sup>th</sup> trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires;

$AC$  = the aggregate value of all cash and any other consideration (as determined by our board of directors or a committee thereof) paid or payable for shares purchased in such tender or exchange offer;

$OS_0$  = the number of shares of our common stock outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer);

S-58



TABLE OF CONTENTS

OS<sub>1</sub> the number of shares of our common stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer); and

SP<sub>1</sub> the average of the last reported sale prices of our common stock over the 10 consecutive trading day period commencing on, and including, the trading day next succeeding the date such tender or exchange offer expires.

The increase to the conversion rate under the preceding paragraph will occur at the close of business on the 10<sup>th</sup> trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires; *provided* that in respect of any conversion of notes within the 10 trading days immediately following, and including, the trading day next succeeding the expiration date of any tender or exchange offer, references with respect to 10 trading days shall be deemed replaced with such lesser number of trading days as have elapsed between the expiration date of such tender or exchange offer and the conversion date in determining the conversion rate. In addition, if the trading day next succeeding the date such tender or exchange offer expires is after the 10<sup>th</sup> trading day immediately preceding, and including, the end of any observation period in respect of a conversion of notes, references in the preceding paragraph to 10 trading days shall be deemed to be replaced, solely in respect of that conversion, with such lesser number of trading days as have elapsed from, and including, the trading day next succeeding the date such tender or exchange offer expires to, and including, the last trading day of such observation period.

Notwithstanding the foregoing, if a conversion rate adjustment becomes effective on any ex-dividend date as described above, and a holder that has converted its notes on or after such ex-dividend date and on or prior to the related record date would be treated as the record holder of shares of our common stock as of the related conversion date as described under Settlement upon Conversion based on an adjusted conversion rate for such ex-dividend date, then, notwithstanding the foregoing conversion rate adjustment provisions, the conversion rate adjustment relating to such ex-dividend date will not be made for such converting holder. Instead, such holder will be treated as if such holder were the record owner of the shares of our common stock on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

In the case of any conversion of a note to which physical settlement applies the conversion date for which is after the regular record date immediately preceding the maturity date, if the record date for any issuance, dividend or distribution, the effective date for any share split or combination, the pricing date for the Hexis IPO or the expiration date for any tender or exchange offer by us that, in each case, would require an adjustment to the conversion rate under clauses (1) through (6) above, occurs after such conversion date and prior to the close of business on the second scheduled trading day immediately preceding the maturity date, we will adjust the conversion rate as if the conversion date had occurred after such record date, effective date, pricing date or expiration date, as the case may be.

Except as stated herein, we will not adjust the conversion rate for the issuance of shares of our common stock or any securities convertible into or exchangeable for shares of our common stock or the right to purchase shares of our common stock or such convertible or exchangeable securities.

As used in this section, ex-dividend date means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from us or, if applicable, from the seller of our common stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market, and effective date means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

As used in this section, record date means, with respect to any dividend, distribution or other transaction or event in which the holders of our common stock (or other applicable security) have the right to receive any cash, securities or

other property or in which our common stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for

S-59

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TABLE OF CONTENTS

determination of holders of our common stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by our board of directors or a duly authorized committee thereof, statute, contract or otherwise).

We are permitted to increase the conversion rate of the notes by any amount for a period of at least 20 business days if our board of directors or a committee thereof determines that such increase would be in our best interest. We may also (but are not required to) increase the conversion rate to avoid or diminish income tax to holders of our common stock or rights to purchase shares of our common stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

A holder may, in some circumstances, including a distribution of cash dividends to holders of our shares of common stock, be deemed to have received a distribution subject to U.S. federal income tax as a result of an adjustment or the nonoccurrence of an adjustment to the conversion rate. For a discussion of the U.S. federal income tax treatment of an adjustment to the conversion rate, see Material U.S. Federal Income and Estate Tax Considerations.

If we have a rights plan in effect upon conversion of the notes into common stock, you will receive, in addition to any shares of common stock received in connection with such conversion, the rights under the rights plan. However, if, prior to any conversion, the rights have separated from the shares of common stock in accordance with the provisions of the applicable rights plan, the conversion rate will be adjusted at the time of separation as if we distributed to all or substantially all holders of our common stock, shares of our capital stock, evidences of indebtedness, assets, property, rights, options or warrants as described in clause (3) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

Notwithstanding any of the foregoing, the conversion rate will not be adjusted:

upon the issuance of any shares of our common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in shares of our common stock under any plan;

upon the issuance of any shares of our common stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by us or any of our subsidiaries;

upon the issuance of any shares of our common stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding bullet and outstanding as of the date the notes were first issued;

solely for a change in the par value of the common stock; or  
for accrued and unpaid interest, if any.

Adjustments to the conversion rate will be calculated to the nearest 1/10,000<sup>th</sup> of a share.

## **Recapitalizations, Reclassifications and Changes of Our Common Stock**

In the case of:

any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination);

any consolidation, merger or combination involving us;

any sale, lease or other transfer to a third party of the consolidated assets of ours and our subsidiaries substantially as an entirety; or



any statutory share exchange,  
in each case, as a result of which our common stock would be converted into, or exchanged for, stock, other securities,  
other property or assets (including cash or any combination thereof) (any such event, a share exchange event ), then, at  
and after the effective time of the transaction, the right to convert each \$1,000 principal amount of notes will be  
changed into a right to convert such principal amount of notes into the kind and amount of shares of stock, other  
securities or other property or assets (including cash or any

S-60

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## TABLE OF CONTENTS

combination thereof) that a holder of a number of shares of common stock equal to the conversion rate immediately prior to such transaction would have owned or been entitled to receive (the reference property ) upon such transaction. However, at and after the effective time of the transaction, (i) we will continue to have the right to determine the form of consideration to be paid or delivered, as the case may be, upon conversion of notes, as set forth under Settlement upon Conversion and (ii)(x) any amount payable in cash upon conversion of the notes as set forth under Settlement upon Conversion will continue to be payable in cash, (y) any shares of our common stock that we would have been required to deliver upon conversion of the notes as set forth under Settlement upon Conversion will instead be deliverable in the amount and type of reference property that a holder of that number of shares of our common stock would have received in such transaction and (z) the daily VWAP will be calculated based on the value of a unit of reference property that a holder of one share of our common stock would have received in such transaction. If the transaction causes our common stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the reference property into which the notes will be convertible will be deemed to be (i) the weighted average of the types and amounts of consideration received by the holders of our common stock that affirmatively make such an election or (ii) if no holders of our common stock affirmatively make such an election, the types and amounts of consideration actually received by the holders of our common stock. We will notify holders, the trustee and the conversion agent (if other than the trustee) of the weighted average as soon as practicable after such determination is made. If the holders of our common stock receive only cash in such transaction, then for all conversions that occur after the effective date of such transaction (i) the consideration due upon conversion of each \$1,000 principal amount of notes shall be solely cash in an amount equal to the conversion rate in effect on the conversion date (as may be increased as described under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off ), multiplied by the price paid per share of common stock in such transaction and (ii) we will satisfy our conversion obligation by paying cash to converting holders on the third business day immediately following the conversion date.

The supplemental indenture providing that the notes will be convertible into reference property will also provide for anti-dilution and other adjustments that are as nearly equivalent as possible to the adjustments described under Conversion Rate Adjustments above. If the reference property in respect of any such transaction includes shares of stock, securities or other property or assets of a company other than us or the successor or purchasing corporation, as the case may be, in such transaction, such other company will also execute such supplemental indenture, and such supplemental indenture will contain such additional provisions to protect the interests of the holders, including the right of holders to require us to repurchase their notes upon a fundamental change as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes below, as the board of directors reasonably considers necessary by reason of the foregoing. We will agree in the indenture not to become a party to any such transaction unless its terms are consistent with the foregoing.

## **Adjustments of Prices**

Whenever any provision of the indenture requires us to calculate the last reported sale prices, the daily VWAPs, the daily conversion values or the daily settlement amounts over a span of multiple days (including an observation period and the stock price for purposes of a make-whole fundamental change), our board of directors or a committee thereof will make appropriate adjustments to each to account for any adjustment to the conversion rate that becomes effective, or any event requiring an adjustment to the conversion rate where the ex-dividend date, effective date or expiration date of the event occurs, at any time during the period when the last reported sale prices, the daily VWAPs, the daily conversion values or the daily settlement amounts are to be calculated.



TABLE OF CONTENTS***Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off***

If (i) either (X) the effective date (as defined below) of a fundamental change (as defined below and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the proviso in clause (2) of the definition thereof, a make-whole fundamental change ) occurs prior to the maturity date of the notes or (Y) we deliver notice of the record date of the Hexis spin-off and, in each case, (ii) a holder elects to convert its notes in connection with such make-whole fundamental change or such Hexis spin-off, then we will, under certain circumstances, increase the conversion rate for the notes so surrendered for conversion by a number of additional shares of common stock (the additional shares ), as described below. A conversion of notes will be deemed for these purposes to be in connection with such make-whole fundamental change if the relevant notice of conversion of the notes is received by the conversion agent from, and including, the effective date of the make-whole fundamental change up to, and including, the business day immediately prior to the related fundamental change repurchase date (or, in the case of a make-whole fundamental change that would have been a fundamental change but for the proviso in clause (2) of the definition thereof, the 35<sup>th</sup> trading day immediately following the effective date of such make-whole fundamental change). A conversion of notes will be deemed for these purposes to be in connection with the Hexis spin-off if the relevant notice of conversion of the notes is received by the conversion agent during the Hexis spin-off conversion period.

Upon surrender of notes for conversion in connection with a make-whole fundamental change or the Hexis spin-off, as the case may be, we will, at our option, satisfy our conversion obligation by physical settlement, cash settlement or combination settlement, as described under Conversion Rights Settlement upon Conversion. However, if the consideration for our common stock in any make-whole fundamental change described in clause (2) of the definition of fundamental change is composed entirely of cash, for any conversion of notes following the effective date of such make-whole fundamental change, the conversion obligation will be calculated based solely on the stock price (as defined below) for the transaction and will be deemed to be an amount of cash per \$1,000 principal amount of converted notes equal to the conversion rate (including any increase to reflect the additional shares as described in this section), *multiplied by* such stock price. In such event, the conversion obligation will be determined and paid to holders in cash on the third business day following the conversion date. We will notify holders, the trustee and the conversion agent (if other than the trustee) of the effective date of any make-whole fundamental change and issue a press release announcing such effective date no later than five business days after such effective date.

The number of additional shares, if any, by which the conversion rate will be increased will be determined by reference to the table below, based on (i) the date on which the make-whole fundamental change occurs or becomes effective or, in the case of the Hexis spin-off, the date on which we deliver notice of the record date of such Hexis spin-off (in each case, the effective date ) and (ii) the price paid (or deemed to be paid) per share of our common stock in the make-whole fundamental change or, in the case of the Hexis spin-off, the average of the last reported sale prices of our common stock over the five trading day period ending on, and including, the trading day immediately preceding the date we deliver notice of the record date of such Hexis spin-off, as the case may be (in each case, the stock price ). If the holders of our common stock receive in exchange for their common stock only cash in a make-whole fundamental change described in clause (2) of the definition of fundamental change, the stock price will be the cash amount paid per share. Otherwise, the stock price for a make-whole fundamental change will be the average of the last reported sale prices of our common stock over the five trading day period ending on, and including, the trading day immediately preceding the effective date of the make-whole fundamental change.

The stock prices set forth in the column headings of the table below will be adjusted as of any date on which the conversion rate of the notes is otherwise adjusted. The adjusted stock prices will equal the stock prices immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so

adjusted. The number of additional shares as set forth in the table below will be adjusted in the same manner and at the same time as the conversion rate as set forth under Conversion Rate Adjustments.

S-62

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TABLE OF CONTENTS

The following table sets forth the number of additional shares by which the conversion rate will be increased per \$1,000 principal amount of notes for each stock price and effective date set forth below:

Effective Date	Stock Price												
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
July , 2014													
July 15, 2015													
July 15, 2016													
July 15, 2017													
July 15, 2018													
July 15, 2019													

The exact stock prices and effective dates may not be set forth in the table above, in which case

If the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares by which the conversion rate will be increased will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day year.

If the stock price is greater than \$ per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

If the stock price is less than \$ per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate per \$1,000 principal amount of notes exceed shares of common stock, subject to adjustment in the same manner as the conversion rate as set forth under Conversion Rate Adjustments.

Our obligation to increase the conversion rate for notes converted in connection with a make-whole fundamental change could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

## **Fundamental Change Permits Holders to Require Us to Repurchase Notes**

If a fundamental change (as defined below in this section) occurs at any time, holders will have the right, at their option, to require us to repurchase for cash all of their notes, or any portion of the principal thereof that is equal to \$1,000 or an integral multiple of \$1,000 in excess thereof. The fundamental change repurchase date will be a date specified by us that is not less than 20 or more than 35 calendar days following the date of our fundamental change notice as described below.

The fundamental change repurchase price we are required to pay will be equal to 100% of the principal amount of the notes to be repurchased, *plus* accrued and unpaid interest to, but excluding, the fundamental change repurchase date (unless the fundamental change repurchase date falls after a regular record date but on or prior to the interest payment date to which such regular record date relates, in which case we will instead pay the full amount of accrued and unpaid interest to the holder of record on such regular record date, and the fundamental change repurchase price will be equal to 100% of the principal amount of the notes to be repurchased).

A fundamental change will be deemed to have occurred at the time after the notes are originally issued if any of the following occurs:

except as described in clause (2) below, a person or group within the meaning of Section 13(d) of the Exchange Act, other than us, our wholly owned subsidiaries and our and their employee benefit plans, has become the direct or indirect beneficial owner, as defined in Rule 13d-3 under the Exchange Act, of our common equity representing more than 50% of the voting power of our common equity;

(1)  
S-63

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TABLE OF CONTENTS

- the consummation of (A) any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination) as a result of which our common stock would be converted into, or exchanged for, stock, other securities, other property or assets; (B) any share exchange, consolidation or merger of us pursuant to which our common stock will be converted into cash, securities or other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the
- (2) consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our wholly owned subsidiaries; *provided, however*, that a transaction described in clause (B) in which the holders of all classes of our common equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of common equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions as such ownership immediately prior to such transaction shall not be a fundamental change pursuant to this clause (2);
- (3) continuing directors (as defined below) cease to constitute at least a majority of our board of directors;
- (4) our stockholders approve any plan or proposal for the liquidation or dissolution of us; or our common stock (or other common stock underlying the notes) ceases to be listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

A transaction or transactions described in clause (2) above will not constitute a fundamental change, however, if at least 90% of the consideration received or to be received by our common stockholders, excluding cash payments for fractional shares, in connection with such transaction or transactions consists of shares of common stock that are listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions the notes become convertible into such consideration, excluding cash payments for fractional shares (subject to the provisions set forth above under Conversion Rights Settlement upon Conversion ).

Continuing director means a director who either was a member of our board of directors on the date of this prospectus supplement or who becomes a member of our board of directors subsequent to that date and whose election, appointment or nomination for election by our stockholders is duly approved by a majority of the continuing directors on our board of directors at the time of such approval, either by a specific vote or by approval of the proxy statement issued by us on behalf of our entire board of directors in which such individual is named as nominee for director.

On or before the 20<sup>th</sup> day after the occurrence of a fundamental change, we will provide to all holders of the notes and the trustee and paying agent a notice of the occurrence of the fundamental change and of the resulting repurchase right. Such notice shall state, among other things:

- the events causing a fundamental change;
- the date of the fundamental change;
- the last date on which a holder may exercise the repurchase right;
- the fundamental change repurchase price;
- the fundamental change repurchase date;
- the name and address of the paying agent and the conversion agent, if applicable;
- if applicable, the conversion rate and any adjustments to the conversion rate;



TABLE OF CONTENTS

that the notes with respect to which a fundamental change repurchase notice has been delivered by a holder may be converted only if the holder withdraws the fundamental change repurchase notice in accordance with the terms of the indenture; and

the procedures that holders must follow to require us to repurchase their notes.

Simultaneously with providing such notice, we will issue a press release or publish the information on our website.

To exercise the fundamental change repurchase right, you must deliver, on or before the business day immediately preceding the fundamental change repurchase date, the notes to be repurchased, duly endorsed for transfer, together with a written repurchase notice, to the paying agent. Each repurchase notice must state:

if certificated, the certificate numbers of your notes to be delivered for repurchase;  
the portion of the principal amount of notes to be repurchased, which must be \$1,000 or an integral multiple thereof;  
and

that the notes are to be repurchased by us pursuant to the applicable provisions of the notes and the indenture.

If the notes are not in certificated form, such repurchase notice must comply with appropriate DTC procedures.

Holders may withdraw any repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the business day immediately preceding the fundamental change repurchase date. The notice of withdrawal shall state:

the principal amount of the withdrawn notes which must be \$1,000 or an integral multiple thereof;

if certificated notes have been issued, the certificate numbers of the withdrawn notes; and  
the principal amount, if any, which remains subject to the repurchase notice, which must be \$1,000 or an integral multiple thereof.

If the notes are not in certificated form, such notice of withdrawal must comply with appropriate DTC procedures.

We will be required to repurchase the notes on the fundamental change repurchase date. Holders who have exercised the repurchase right will receive payment of the fundamental change repurchase price on the later of (i) the fundamental change repurchase date and (ii) the time of book-entry transfer or the delivery of the notes. If the paying agent holds money sufficient to pay the fundamental change repurchase price of the notes on the fundamental change repurchase date, then, with respect to the notes that have been properly surrendered for repurchase and have not been validly withdrawn:

the notes will cease to be outstanding and interest will cease to accrue (whether or not book-entry transfer of the notes is made or whether or not the notes are delivered to the paying agent); and

all other rights of the holder will terminate (other than the right to receive the fundamental change repurchase price).

In connection with any repurchase offer pursuant to a fundamental change repurchase notice, we will, if required:

comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;

file a Schedule TO or any other required schedule under the Exchange Act; and

otherwise comply with all federal and state securities laws in connection with any offer by us to repurchase the notes;

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## TABLE OF CONTENTS

in each case, so as to permit the rights and obligations under this Fundamental Change Permits Holders to Require Us to Repurchase Notes to be exercised in the time and in the manner specified in the indenture.

No notes may be repurchased on any date at the option of holders upon a fundamental change if the principal amount of the notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a default by us in the payment of the fundamental change repurchase price with respect to such notes).

The repurchase rights of the holders could discourage a potential acquirer of us. The fundamental change repurchase feature, however, is not the result of management's knowledge of any specific effort to obtain control of us by any means or part of a plan by management to adopt a series of anti-takeover provisions.

The term fundamental change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement that we offer to repurchase the notes upon a fundamental change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

Furthermore, holders may not be entitled to require us to repurchase their notes or entitled to an increase in the conversion rate upon conversion as described under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off in certain circumstances involving a significant change in the composition of our board, including in connection with a proxy contest where our board does not endorse a dissident slate of directors but approves them for purposes of the definition of continuing directors above.

The definition of fundamental change includes a phrase relating to the sale, lease or other transfer of all or substantially all of our consolidated assets. There is no precise, established definition of the phrase substantially all under applicable law. Accordingly, the ability of a holder of the notes to require us to repurchase its notes as a result of the sale, lease or other transfer of less than all of our assets may be uncertain.

If a fundamental change were to occur, we may not have enough funds to pay the fundamental change repurchase price. Our ability to repurchase the notes for cash may be limited by restrictions on our ability to obtain funds for such repurchase through dividends from our subsidiaries, the terms of our then existing borrowing arrangements or otherwise. See Risk Factors Risks Related to the Notes We may not have the ability to raise the funds necessary to settle conversions of the notes or to repurchase the notes upon a fundamental change, and our future debt may contain limitations on our ability to pay cash upon conversion or repurchase of the notes. If we fail to repurchase the notes when required following a fundamental change, we will be in default under the indenture. In addition, we have, and may in the future incur, other indebtedness with similar change in control provisions permitting our holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

## **Consolidation, Merger and Sale of Assets**

The indenture provides that we shall not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of our properties and assets to, another person, unless (i) the resulting, surviving or transferee person (if not us) is a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and such corporation (if not us) expressly assumes by supplemental indenture all of our obligations under the notes and the indenture; and (ii) immediately after giving effect to such transaction, no default or event of default has occurred and is continuing under the indenture. Upon any such consolidation, merger or sale,

conveyance, transfer or lease, the resulting, surviving or transferee person (if not us) shall succeed to, and may exercise every right and power of, ours under the indenture, and we shall be discharged from our obligations under the notes and the indenture except in the case of any such lease.

Although these types of transactions are permitted under the indenture, certain of the foregoing transactions could constitute a fundamental change permitting each holder to require us to repurchase the notes of such holder as described above.

S-66

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TABLE OF CONTENTS

This Consolidation, Merger and Sale of Assets section replaces the section of the accompanying prospectus under the heading Description of Debt Securities Consolidation, Merger or Sale in its entirety.

## Events of Default

Each of the following is an event of default with respect to the notes:

- (1) default in any payment of interest on any note when due and payable and the default continues for a period of 30 days;
- (2) default in the payment of principal of any note when due and payable at its stated maturity, upon any required repurchase, upon declaration of acceleration or otherwise;
- (3) our failure to comply with our obligation to convert the notes in accordance with the indenture upon exercise of a holder's conversion right and such failure continues for a period of three business days;
- (4) our failure to give a fundamental change notice as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes, notice of a corporate event as described under Conversion upon Specified Corporate Events, notice of the record date of the Hexis spin-off as described under Conversion upon Hexis Spin-off, notice of a make-whole fundamental change as described under Increase in Conversion Rate upon Conversion upon a Make-whole Fundamental Change or the Hexis Spin-off or notice of a share exchange event as described under Recapitalizations, Reclassifications and Changes of Our Common Stock, in each case when due;
- (5) our failure to comply with our obligations under Consolidation, Merger and Sale of Assets ;
- (6) our failure for 90 days after written notice from the trustee or the holders of at least 25% in principal amount of the notes then outstanding has been received to comply with any of our other agreements contained in the notes or indenture;
- (7) default by us or any of our subsidiaries with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of \$3,000,000 (or its foreign currency equivalent) in the aggregate of us and/or any such subsidiary, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable or (ii) constituting a failure to pay the principal or interest of any such debt when due and payable at its stated maturity (or at the expiration of any grace period provided in such indebtedness), upon required repurchase, upon declaration of acceleration or otherwise;
- (8) certain events of bankruptcy, insolvency, or reorganization of us or any of our significant subsidiaries, as defined in Article 1, Rule 1-02 of Regulation S-X;
- (9) a final judgment or judgments for the payment of \$3,000,000 (or its foreign currency equivalent) or more (excluding any amounts covered by insurance) in the aggregate rendered against us or any of our subsidiaries, which judgment is not discharged or stayed within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or
- (10) our failure to comply with our obligation to postpone the record date of the Hexis spin-off, if necessary, as described under Conversion Rights Conversion upon Hexis Spin-off.

If an event of default occurs and is continuing, the trustee by notice to us, or the holders of at least 25% in principal amount of the outstanding notes by notice to us and the trustee, may declare 100% of the principal of and accrued and unpaid interest, if any, on all the notes to be due and payable. In case of certain events of bankruptcy, insolvency or reorganization, involving us or a significant subsidiary, 100% of the principal of and accrued and unpaid interest on the notes will automatically become due and payable. Upon such a declaration of acceleration, such principal and accrued and unpaid interest, if any, will be due and payable immediately.



TABLE OF CONTENTS

Notwithstanding the foregoing, the indenture will provide that, to the extent we elect, the sole remedy for an event of default relating to (i) our failure to file with the trustee pursuant to Section 314(a)(1) of the Trust Indenture Act any documents or reports that we are required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act or (ii) our failure to comply with our obligations as set forth under Reports below, will after the occurrence of such an event of default consist exclusively of the right to receive additional interest on the notes at a rate equal to 0.25% per annum of the principal amount of the notes outstanding for each day during the 60-day period on which such event of default is continuing beginning on, and including, the date on which such an event of default first occurs.

If we so elect, such additional interest will be payable in the same manner and on the same dates as the stated interest payable on the notes. On the 91<sup>st</sup> day after such event of default (if the event of default relating to the reporting obligations is not cured or waived prior to such 91<sup>st</sup> day), the notes will be subject to acceleration as provided above. The provisions of the indenture described in this paragraph will not affect the rights of holders of notes in the event of the occurrence of any other event of default. In the event we do not elect to pay the additional interest following an event of default in accordance with this paragraph or we elected to make such payment but do not pay the additional interest when due, the notes will be immediately subject to acceleration as provided above.

In order to elect to pay the additional interest as the sole remedy during the first 90 days after the occurrence of an event of default relating to the failure to comply with the reporting obligations in accordance with the immediately preceding paragraph, we must notify all holders of notes, the trustee and the paying agent in writing of such election prior to the beginning of such 90-day period. Upon our failure to timely give such notice, the notes will be immediately subject to acceleration as provided above.

If any portion of the amount payable on the notes upon acceleration is considered by a court to be unearned interest (through the allocation of the value of the instrument to the embedded warrant or otherwise), the court could disallow recovery of any such portion.

The holders of a majority in principal amount of the outstanding notes may waive all past defaults (except with respect to nonpayment of principal or interest or with respect to the failure to deliver the consideration due upon conversion) and rescind any such acceleration with respect to the notes and its consequences if (i) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing events of default, other than the nonpayment of the principal of and interest on the notes that have become due solely by such declaration of acceleration, have been cured or waived.

Each holder shall have the right to receive payment or delivery, as the case may be, of:

the principal (including the fundamental change repurchase price, if applicable) of;  
accrued and unpaid interest, if any, on; and  
the consideration due upon conversion of,

its notes, on or after the respective due dates expressed or provided for in the indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of such holder.

If an event of default occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the indenture at the request or direction of any of the holders unless such holders have offered to the trustee indemnity or security satisfactory to the trustee against any loss, liability or expense. Except to enforce the right to receive payment of principal or interest when due, or the right to receive payment or delivery of the consideration due upon conversion, no holder may pursue any remedy with respect to the indenture or the notes

unless:

- (1) such holder has previously given the trustee notice that an event of default is continuing;
- (2) holders of at least 25% in principal amount of the outstanding notes have requested the trustee to pursue the remedy;

S-68

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TABLE OF CONTENTS

- (3) such holders have offered the trustee security or indemnity reasonably satisfactory to the trustee against any loss, liability or expense;
  - (4) the trustee has not complied with such request within 60 days after the receipt of the request and the offer of such security or indemnity; and
  - (5) the holders of a majority in principal amount of the outstanding notes have not given the trustee a direction that, in the opinion of the trustee, is inconsistent with such request within such 60-day period.
- Subject to certain restrictions, the holders of a majority in principal amount of the outstanding notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or of exercising any trust or power conferred on the trustee.

The indenture provides that in the event an event of default has occurred and is continuing, the trustee will be required in the exercise of its powers to use the degree of care that a prudent person would use in the conduct of its own affairs.

The trustee, however, may refuse to follow any direction that conflicts with law or the indenture or that the trustee determines is unduly prejudicial to the rights of any other holder or that would involve the trustee in personal liability.

Prior to taking any action under the indenture, the trustee will be entitled to indemnification satisfactory to it against any loss, liability or expense caused by taking or not taking such action.

The indenture provides that if a default occurs and is continuing and is known to the trustee, the trustee must mail, or in the case of global notes, deliver in accordance with DTC's procedures, to each holder notice of the default within 90 days after it occurs. Except in the case of a default in the payment of principal of or interest on any note or a default in the payment or delivery of the consideration due upon conversion, the trustee may withhold notice if and so long as a committee of trust officers of the trustee in good faith determines that withholding notice is in the interests of the holders. In addition, we are required to deliver to the trustee, within 120 days after the end of each fiscal year, a certificate indicating whether the signers thereof know of any default that occurred during the previous year. We are also required to deliver to the trustee, within 30 days after the occurrence thereof, written notice of any events which would constitute certain defaults, their status and what action we are taking or proposing to take in respect thereof.

Payments of the fundamental change repurchase price, principal and interest that are not made when due will accrue interest per annum at the then-applicable interest rate plus one percent from the required payment date.

This Events of Default section replaces the section of the accompanying prospectus under the heading Description of Debt Securities Events of Default Under the Indenture in its entirety.

## **Modification and Amendment**

Subject to certain exceptions, the indenture or the notes may be amended with the consent of the holders of at least a majority in principal amount of the notes then outstanding (including without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, notes) and, subject to certain exceptions, any past default or compliance with any provisions may be waived with the consent of the holders of a majority in principal amount of the notes then outstanding (including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, notes). However, without the consent of each holder of an outstanding note affected, no amendment may, among other things:

- (1) reduce the amount of notes whose holders must consent to an amendment;
- (2) reduce the rate of or extend the stated time for payment of interest on any note;
- (3) reduce the principal of or extend the stated maturity of any note;
- (4) make any change that adversely affects the conversion rights of any notes;



reduce the fundamental change repurchase price of any note or amend or modify in any manner adverse to the (5)holders of notes our obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

S-69

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TABLE OF CONTENTS

- (6) make any note payable in money, or at a place of payment, other than that stated in the note;
  - (7) change the ranking of the notes;
  - (8) impair the right of any holder to receive payment of principal and interest on such holder's notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder's notes; or
  - (9) make any change in the amendment provisions that require each holder's consent or in the waiver provisions.
- Without the consent of any holder, we and the trustee may amend the indenture to:
- (1) cure any ambiguity, omission, defect or inconsistency;
  - (2) provide for the assumption by a successor corporation of our obligations under the indenture;
  - (3) add guarantees with respect to the notes;
  - (4) secure the notes;
  - (5) add to our covenants or events of default for the benefit of the holders or surrender any right or power conferred upon us;
  - (6) make any change that does not adversely affect the rights of any holder; in connection with any share exchange event, provide that the notes are convertible into reference property, subject
  - (7) to the provisions described under Conversion Rights Settlement upon Conversion above, and make certain related changes to the terms of the notes to the extent expressly required by the indenture;
  - (8) comply with any requirement of the SEC in connection with the qualification of the indenture under the Trust Indenture Act;
  - (9) provide for the acceptance of appointment by a successor trustee pursuant to the indenture or facilitate the administration of the trusts under the indenture by more than one trustee; or
  - (10) conform the provisions of the indenture to the Description of Notes section in the preliminary prospectus supplement, as supplemented by the related pricing term sheet.

Holders do not need to approve the particular form of any proposed amendment. It will be sufficient if such holders approve the substance of the proposed amendment. After an amendment under the indenture becomes effective, we are required to mail to the holders a notice briefly describing such amendment. However, the failure to give such notice to all the holders, or any defect in the notice, will not impair or affect the validity of the amendment.

This Modification and Amendment section replaces the section of the accompanying prospectus under the heading Description of Debt Securities Modification of Indenture; Waiver in its entirety.

## Discharge

We may satisfy and discharge our obligations under the indenture by delivering to the securities registrar for cancellation all outstanding notes or by depositing with the trustee or delivering to the holders, as applicable, after the notes have become due and payable, whether at maturity, at any fundamental change repurchase date, upon conversion or otherwise, cash or cash and/or shares of common stock, solely to satisfy outstanding conversions, as applicable, sufficient to pay all of the outstanding notes and paying all other sums payable under the indenture by us. Such discharge is subject to terms contained in the indenture.

This Discharge section replaces the section of the accompanying prospectus under the heading Description of Debt Securities Discharge in its entirety.

TABLE OF CONTENTS

## **Calculations in Respect of Notes**

Except as otherwise provided above, we will be responsible for making all calculations called for under the notes. These calculations include, but are not limited to, determinations of the stock price, the last reported sale prices of our common stock, the daily VWAPs, the daily conversion values, the daily settlement amounts, accrued interest payable on the notes and the conversion rate of the notes. We will make all these calculations in good faith and, absent manifest error, our calculations will be final and binding on holders of notes. We will provide a schedule of our calculations to each of the trustee and the conversion agent, and each of the trustee and the conversion agent is entitled to rely conclusively upon the accuracy of our calculations without independent verification. The trustee will forward our calculations to any holder of notes upon the request of that holder.

## **Reports**

The indenture provides that any documents or reports that we are required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act must be filed by us with the trustee within 15 days after the same are required to be filed with the SEC (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Documents filed by us with the SEC via the EDGAR system will be deemed to be filed with the trustee as of the time such documents are filed via EDGAR.

## **Trustee**

Wilmington Trust, National Association, is the trustee, security registrar, paying agent and conversion agent. Wilmington Trust, National Association, in each of its capacities, including without limitation as trustee, security registrar, paying agent and conversion agent, assumes no responsibility for the accuracy or completeness of the information concerning us or our affiliates or any other party contained in this document or the related documents or for any failure by us or any other party to disclose events that may have occurred and may affect the significance or accuracy of such information.

We maintain banking relationships in the ordinary course of business with the trustee and its affiliates.

## **Governing Law**

The indenture provides that it and the notes, and any claim, controversy or dispute arising under or related to the indenture or the notes, will be governed by and construed in accordance with the laws of the State of New York.

This Governing Law section replaces the section of the accompanying prospectus under the heading Description of Debt Securities Governing Law in its entirety.

## **Book-entry, Settlement and Clearance The Global Notes**

The notes will be initially issued in the form of one or more registered notes in global form, without interest coupons (the global notes). Upon issuance, each of the global notes will be deposited with the trustee as custodian for DTC and registered in the name of Cede & Co., as nominee of DTC.

Ownership of beneficial interests in a global note will be limited to persons who have accounts with DTC ( DTC participants ) or persons who hold interests through DTC participants. We expect that under procedures established by DTC:

upon deposit of a global note with DTC's custodian, DTC will credit portions of the principal amount of the global note to the accounts of the DTC participants designated by the underwriters; and ownership of beneficial interests in a global note will be shown on, and transfer of ownership of those interests will be effected only through, records maintained by DTC (with respect to interests of DTC participants) and the records of DTC participants (with respect to other owners of beneficial interests in the global note).

S-71

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TABLE OF CONTENTS

Beneficial interests in global notes may not be exchanged for notes in physical, certificated form except in the limited circumstances described below.

## **Book-entry Procedures for the Global Notes**

All interests in the global notes will be subject to the operations and procedures of DTC. We provide the following summary of those operations and procedures solely for the convenience of investors. The operations and procedures of DTC are controlled by that settlement system and may be changed at any time. Neither we nor the underwriters are responsible for those operations or procedures.

DTC has advised us that it is:

- a limited purpose trust company organized under the laws of the State of New York;
  - a banking organization within the meaning of the New York State Banking Law;
    - a member of the Federal Reserve System;
  - a clearing corporation within the meaning of the Uniform Commercial Code; and
    - a clearing agency registered under Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and to facilitate the clearance and settlement of securities transactions between its participants through electronic book-entry changes to the accounts of its participants. DTC's participants include securities brokers and dealers, including the underwriters; banks and trust companies; clearing corporations and other organizations. Indirect access to DTC's system is also available to others such as banks, brokers, dealers and trust companies; these indirect participants clear through or maintain a custodial relationship with a DTC participant, either directly or indirectly. Investors who are not DTC participants may beneficially own securities held by or on behalf of DTC only through DTC participants or indirect participants in DTC.

So long as DTC's nominee is the registered owner of a global note, that nominee will be considered the sole owner or holder of the notes represented by that global note for all purposes under the indenture. Except as provided below, owners of beneficial interests in a global note:

- will not be entitled to have notes represented by the global note registered in their names;
- will not receive or be entitled to receive physical, certificated notes; and

will not be considered the owners or holders of the notes under the indenture for any purpose, including with respect to the giving of any direction, instruction or approval to the trustee under the indenture.

As a result, each investor who owns a beneficial interest in a global note must rely on the procedures of DTC to exercise any rights of a holder of notes under the indenture (and, if the investor is not a participant or an indirect participant in DTC, on the procedures of the DTC participant through which the investor owns its interest).

Payments of principal and interest with respect to the notes represented by a global note will be made by the trustee to DTC's nominee as the registered holder of the global note. None of us, the trustee or any of our respective agents will have any responsibility or liability for the payment of amounts to owners of beneficial interests in a global note, for any aspect of the records relating to or payments made on account of those interests by DTC, or for maintaining, supervising or reviewing any records of DTC relating to those interests.

Payments by participants and indirect participants in DTC to the owners of beneficial interests in a global note will be governed by standing instructions and customary industry practice and will be the responsibility of those participants or indirect participants and DTC.

Transfers between participants in DTC will be effected under DTC's procedures and will be settled in same-day funds.

S-72

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TABLE OF CONTENTS

**Certificated notes**

Notes in physical, certificated form will be issued and delivered to each person that DTC identifies as a beneficial owner of the related notes only if:

DTC notifies us at any time that it is unwilling or unable to continue as depositary for the global notes and a successor depositary is not appointed within 90 days;

DTC ceases to be registered as a clearing agency under the Exchange Act and a successor depositary is not appointed within 90 days; or

an event of default with respect to the notes has occurred and is continuing and such beneficial owner requests that its notes be issued in physical, certificated form.

The second bullet in the second paragraph of the section of the accompanying prospectus under the heading "Legal Ownership of Securities - Special Situations When a Global Security Will Be Terminated" shall not apply with respect to the notes.

S-73

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TABLE OF CONTENTS

## DESCRIPTION OF CAPPED CALL TRANSACTIONS

In connection with the pricing of the notes, we expect to enter into capped call transactions with one or more of the underwriters or their respective affiliates (the option counterparties). The capped call transactions will cover, subject to anti-dilution adjustments substantially similar to those applicable to the notes, the number of shares of our common stock underlying the notes.

We intend to use approximately \$ million of the net proceeds from this offering to pay the cost of the capped call transactions. If the underwriters exercise their over-allotment option, we may use a portion of the proceeds from the sale of the additional notes to enter into additional capped call transactions.

The capped call transactions are expected generally to reduce the potential dilution and/or offset cash payments due upon conversion of the notes in the event that the market price per share of our common stock, as measured under the terms of the capped call transactions, is greater than the strike price of the capped call transactions, which initially corresponds to the conversion price of the notes and is subject to anti-dilution adjustments substantially similar to those applicable to the conversion rate of the notes. If, however, the market price per share of our common stock, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions, there would nevertheless be dilution and/or there would not be an offset of such potential cash payments, in each case, to the extent that such market price exceeds the cap price of the capped call transactions.

We will not be required to make any cash payments to the option counterparties or their respective affiliates upon the exercise of the options that are a part of the capped call transactions, but we will be entitled to receive from the option counterparties or their respective affiliates, as the case may be, a number of shares of our common stock and/or an amount of cash generally based on the amount by which the market price per share of our common stock, as measured under the terms of the capped call transactions, is greater than the strike price of the capped call transactions during the relevant valuation period under the capped call transactions. However, if the market price per share of our common stock, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions during such valuation period, the number of shares of our common stock and/or the amount of cash we expect to receive upon exercise of the capped call transactions will be capped based on the amount by which the cap price exceeds the strike price of the capped call transactions.

The capped call transactions are separate transactions entered into by us with the option counterparties, are not part of the terms of the notes and will not change the holders' rights under the notes. As a holder of the notes, you will not have any rights with respect to the capped call transactions.

For a discussion of the potential impact of any market or other activity by the option counterparties and/or their respective affiliates in connection with the capped call transactions, see [Underwriting \(Conflicts of Interest\)](#), [Capped Call Transactions](#) and [Risk Factors - Risks Related to the Notes](#). The capped call transactions may affect the value of the notes and our common stock.

S-74

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TABLE OF CONTENTS

## **DESCRIPTION OF OTHER INDEBTEDNESS**

### **New Credit Facility**

Concurrently with and conditioned upon the issuance of the notes, we expect to enter into a new revolving credit facility. The following description is a summary of the material provisions of the new revolving credit facility.

We expect that our wholly-owned subsidiary, The KEYW Corporation, a Maryland corporation, will enter into a senior secured revolving credit agreement with Royal Bank of Canada, Bank of America, SunTrust Bank (or one of their respective affiliates) and other lenders arranged by RBC Capital Markets, LLC for which Royal Bank of Canada will serve as sole administrative agent and sole collateral agent. The KEYW Corporation will receive a revolving credit commitment of up to \$42.5 million that includes a swingline loan commitment of up to \$10.0 million and a letter of credit facility of up to \$15.0 million.

Borrowings under the new revolving credit facility will bear interest at a rate equal to an applicable rate plus, at our option, either (a) adjusted LIBOR or (b) a base rate (which is usually equal to the prime rate). We will also be required to pay a facility fee to the lenders under the new revolving credit facility for any used and unused commitments and customary letter of credit fees.

The revolving loans shall be prepaid (without any corresponding commitment reduction in the case of the following clause (a)) with (a) 100% of the net cash proceeds of all non-ordinary course asset sales or other dispositions of property by The KEYW Corporation and its subsidiaries (including, without limitation, insurance and condemnation proceeds), subject to exceptions to be agreed upon and customary reinvestment rights if reinvested within twelve months of such sale or disposition, (b) 100% of the net cash proceeds of issuances of debt obligations of The KEYW Corporation and its subsidiaries after the closing date (other than permitted debt (excluding refinancing debt)) and subject to baskets and threshold amounts to be mutually agreed, and (c) 100% of the net cash proceeds of (i) any public offering of the equity of The KEYW Corporation or its subsidiaries (other than up to 33% of the equity of Hexis Cyber Solutions, Inc.) after the closing date or (ii) any sale of the equity of The KEYW Corporation's subsidiaries to any person (other than (A) sales to The KEYW Corporation or its subsidiaries or, (B) sales of up to 33% of the equity of Hexis Cyber Solutions, Inc.) after the closing date.

We may voluntarily repay outstanding loans under the new revolving credit facility at any time without premium or penalty.

The new revolving credit facility will be available from the closing of the new credit facility and will mature on the earlier to occur of (i) the fifth anniversary of the closing of the new credit facility, and (ii) the date that is 180 days prior to the maturity date of the notes unless the notes are converted into equity, repaid, refinanced or otherwise satisfied on terms permitted under the new revolving credit agreement.

The new revolving credit agreement will contain a number of negative covenants that will, among other things, restrict, subject to certain exceptions, our and our subsidiaries' ability to: incur additional indebtedness; incur additional liens; sell all or substantially all of our assets; consummate certain fundamental changes; change our lines of business or make certain restricted payments (including cash payments upon conversion of the notes if a default or event of default exists under the facility or if, after giving effect to such payments and any debt incurred to make such payments, we are not in pro forma compliance with the financial covenants and other financial tests under the facility.) The new revolving credit agreement will also contain certain customary affirmative covenants and events of

default.

The new revolving credit agreement will require us to maintain a maximum consolidated senior secured leverage ratio and a minimum cash interest coverage ratio. The consolidated senior secured leverage ratio test measures the ratio of our consolidated funded indebtedness (other than consolidated funded indebtedness that is unsecured) to trailing four quarter Consolidated EBITDA (as defined in the new revolving credit agreement). This ratio is permitted to be no greater than 2.25 to 1.00 as of the end of any fiscal quarter during the applicable period. The cash interest coverage ratio test measures the ratio of trailing four quarter Consolidated EBITDA minus taxes paid in such period to consolidated interest expense paid in such period in cash. This ratio is permitted to be no less than 3.50 to 1.00.

Certain of the underwriters and/or their affiliates will perform roles under the new revolving credit facility. See Underwriting (Conflicts of Interest).

S-75

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TABLE OF CONTENTS**UNDERWRITING (CONFLICTS OF INTEREST)**

RBC Capital Markets, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are acting as representatives of each of the underwriters named below. Subject to the terms and conditions set forth in an underwriting agreement between us and the underwriters, we have agreed to sell to the underwriters, and each of the underwriters has agreed, severally and not jointly, to purchase from us, the principal amount of notes set forth opposite its name below.

Underwriters	Principal Amount of Notes
RBC Capital Markets, LLC	\$
Merrill Lynch, Pierce, Fenner & Smith Incorporated	\$
SunTrust Robinson Humphrey, Inc.	\$
Total	\$ 125,000,000

Subject to the terms and conditions set forth in the underwriting agreement, the underwriters have agreed, severally and not jointly, to purchase all of the notes sold under the underwriting agreement if any of these notes are purchased. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the nondefaulting underwriters may be increased or the underwriting agreement may be terminated.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make in respect of those liabilities.

The underwriters are offering the notes, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel, including the validity of the notes, and other conditions contained in the underwriting agreement, such as the receipt by the underwriters of officers' certificates and legal opinions. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

**Commissions and Discounts**

The representatives have advised us that the underwriters propose initially to offer the notes at a price of % of the principal amount of notes, plus accrued interest from the original issue date of the notes, if any, and to dealers at that price less a concession not in excess of % of the principal amount of the notes, plus accrued interest from the original issue date of the notes, if any. After the initial offering, the public offering price, concession or any other term of the offering may be changed.

The following table shows the public offering price, underwriting discount and proceeds before expenses to us. The information assumes either no exercise or full exercise by the underwriters of their over-allotment option.

	Per Note	Without Option	With Option
Public offering price	%	\$	\$
Underwriting discount	%	\$	\$
Proceeds, before expenses, to KEYW	%	\$	\$

We also expect to enter into capped call transactions with the option counterparties as described below.

The expenses of the offering, not including the underwriting discount, are estimated to be approximately \$      and are payable by us. We have agreed to reimburse the underwriters up to \$      for expenses related to any filing with, and any clearance of this offering by, the Financial Industry Regulatory Authority (FINRA).

## **Over-allotment Option**

We have also granted the underwriters the option to purchase within a period beginning the date of this prospectus supplement and ending on the 30<sup>th</sup> day following the date the notes are first issued up to an additional \$18,750,000 aggregate principal amount of notes, solely to cover over-allotments. If the

S-76

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## TABLE OF CONTENTS

underwriters exercise this option, each will be obligated, subject to conditions contained in the underwriting agreement, to purchase an additional principal amount of the notes proportionate to that underwriter's initial amount reflected in the above table.

## **New Issue of Notes**

The notes are a new issue of securities with no established trading market. We do not intend to apply for listing of the notes on any national securities exchange or for inclusion of the notes on any automated dealer quotation system. We have been advised by the underwriters that they presently intend to make a market in the notes after completion of the offering. However, they are under no obligation to do so and may discontinue any market-making activities at any time without any notice. We cannot assure the liquidity of the trading market for the notes or that an active public market for the notes will develop. If an active public trading market for the notes does not develop, the market price and liquidity of the notes may be adversely affected. If the notes are traded, they may trade at a discount from their initial offering price, depending on prevailing interest rates, the market for similar securities, our operating performance and financial condition, general economic conditions and other factors.

## **Nasdaq Global Market Listing**

Our shares are listed on the Nasdaq Global Select Market under the symbol KEYW.

The transfer agent and registrar for our common stock is Registrar and Transfer Company.

## **No Sales of Similar Securities**

We and our executive officers and directors have agreed, with certain limited exceptions, that we and they will not, for a period of 90 days after the date of this prospectus supplement, without first obtaining the prior written consent of RBC Capital Markets, LLC, directly or indirectly:

offer, pledge, sell or contract to sell any common stock;  
sell any option or contract to purchase any common stock;  
purchase any option or contract to sell any common stock;  
grant any option, right or warrant for the sale of any common stock;  
request or demand that we file a registration statement related to any common stock; or  
enter into any swap or any other agreement or any transaction that transfers, in whole or in part, the economic consequence of ownership of any common stock whether any such swap or transaction is to be settled by delivery of shares or other securities, in cash or otherwise.

This lock-up provision applies to our common stock and to securities convertible into or exchangeable or exercisable for or repayable with our common stock. It also applies to common stock owned now or acquired later by the person executing the agreement or for which the person executing the agreement later acquires the power of disposition.

Notwithstanding the above, the lock-up provision binding the Company will not apply to us with respect to, among other things, (A) the notes to be sold in this offering, (B) any shares of common stock issued upon conversion of the notes, (C) any shares of common stock issued by the Company upon the exercise of an option or warrant or the conversion of (or satisfaction of a condition to the issuance of) a security outstanding on the date hereof, (D) any offer of shares, any shares of common stock issued or any options to purchase common stock granted pursuant to employee benefit plans of the Company, (E) any shares of common stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan, (F) any rights issued under any shareholder rights plan adopted by the Company

or (G) any registration statement on Form S-8 under the 1933 Act with respect to the foregoing. In the event that either (x) during the last 17 days of the lock-up period referred to above, we issue an earnings release or material news or a material event relating to us occurs or (y) prior to the expiration of the lock-up period, we announce that we will release earnings results or become aware that material news or a material event will occur during the 16 day period beginning on the last day of the lock-up period, the restrictions described above shall continue to apply until the expiration of the 18 day period beginning on the issuance of the earnings release or the occurrence of the material news or material event, unless RBC Capital Markets, LLC waives, in writing, such extension.

S-77

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TABLE OF CONTENTS

## **Price Stabilization, Short Positions**

In connection with the offering, the underwriters may purchase and sell the notes or shares of our common stock in the open market. These transactions may include short sales, purchases on the open market to cover positions created by short sales and stabilizing transactions. Short sales involve the sale by the underwriters of a greater principal amount of notes than they are required to purchase in the offering. Covered short sales are sales made in an amount not greater than the underwriters' over-allotment option described above. The underwriters may close out any covered short position by either exercising their over-allotment option or purchasing notes in the open market. In determining the source of notes to close out the covered short position, the underwriters will consider, among other things, the price of notes available for purchase in the open market as compared to the price at which they may purchase notes through the over-allotment option. Naked short sales are sales in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing notes in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the notes in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of notes or shares of our common stock made by the underwriters in the open market to peg, fix or maintain the price of the notes or our common stock prior to the completion of the offering.

Similar to other purchase transactions, the underwriters' purchases to cover the syndicate short sales may have the effect of raising or maintaining the market price of the notes or preventing or retarding a decline in the market price of the notes. As a result, the price of the notes may be higher than the price that might otherwise exist in the open market.

Neither we nor any of the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the notes or our common stock. In addition, neither we nor any of the underwriters make any representation that the representatives will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

## **Capped Call Transactions**

In connection with the pricing of the notes, we expect to enter into capped call transactions with the option counterparties. The capped call transactions are expected to reduce potential dilution to our common stock and/or offset any cash payments due in excess of the principal amount of converted notes, as the case may be, upon any conversion of notes, with such reduction and/or offset subject to a cap.

We intend to use approximately \$ million of the net proceeds from this offering to pay the cost of the capped call transactions. If the underwriters exercise their over-allotment option, we may use a portion of the proceeds from the sale of the additional notes to enter into additional capped call transactions.

In connection with establishing their initial hedge of the capped call transactions, the option counterparties and/or their respective affiliates expect to enter into various derivative transactions with respect to our common stock and/or purchase shares of our common stock concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of our common stock or the notes at that time.

In addition, the option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so during any observation period related to a conversion of notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the notes,

which could affect your ability to convert the notes and, to the extent the activity occurs during any observation period related to a conversion of notes, it could affect the number of shares and value of the consideration that you will receive upon conversion of the notes.

S-78

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## TABLE OF CONTENTS

For a discussion of the potential impact of any market or other activity by the option counterparties and/or their respective affiliates in connection with the capped call transactions, see Risk Factors Risks Related to the Notes The capped call transactions may affect the value of the notes and our common stock.

## **Conflicts of Interest**

Some of the underwriters and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

Affiliates of RBC Capital Markets, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are lenders under our existing credit facility and will receive at least five percent of the net proceeds from this offering when such proceeds are used to reduce or to retire the balance of the existing credit facility. As a result, RBC Capital Markets, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are deemed to have a conflict of interest under FINRA Rule 5121.

Accordingly, this offering will be made in compliance with the applicable provisions of Rule 5121. Rule 5121 requires that a qualified independent underwriter meeting certain standards participate in the preparation of the registration statement and prospectus and exercise the usual standards of due diligence in respect thereto. SunTrust Robinson Humphrey, Inc. has agreed to act as a qualified independent underwriter within the meaning of Rule 5121 in connection with this offering. SunTrust Robinson Humphrey, Inc. will not receive any additional benefits for serving as a qualified independent underwriter. We have agreed to indemnify SunTrust Robinson Humphrey, Inc. from and against any and all loss, liability, claim, damage and expense whatsoever incurred as a result of its participation as a qualified independent underwriter.

Concurrently with this offering, we expect that our wholly-owned subsidiary, The KEYW Corporation, a Maryland corporation, will enter into a new senior secured revolving credit agreement with Royal Bank of Canada, Bank of America (or one of its affiliates), SunTrust Bank (or one of its affiliates) and other lenders arranged by RBC Capital Markets, LLC for which Royal Bank of Canada will serve as sole administrative agent and sole collateral agent.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

## **Electronic Offer, Sale and Distribution of Securities**

In connection with the offering, certain of the underwriters or securities dealers may distribute this prospectus supplement and the accompanying prospectus by electronic means, such as e-mail. In addition, RBC Capital Markets, LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and SunTrust Robinson Humphrey, Inc. may facilitate Internet distribution for this offering to certain of its Internet subscription customers. RBC Capital Markets, LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and SunTrust Robinson Humphrey, Inc. may allocate a limited principal amount of notes for sale to their online brokerage customers. An electronic prospectus supplement and the accompanying prospectus is available on the Internet web sites maintained by RBC Capital Markets, LLC, Merrill

Lynch, Pierce, Fenner & Smith Incorporated and SunTrust Robinson Humphrey, Inc. Other than the prospectus supplement and the accompanying prospectus in electronic format, the information on the RBC Capital Markets, LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and SunTrust Robinson Humphrey, Inc. web sites is not part of this prospectus supplement.

S-79

---

TABLE OF CONTENTS

## **Notice to Residents of Canada**

The securities may be sold only to purchasers purchasing as principal that are both accredited investors as defined in National Instrument 45-106 Prospectus and Registration Exemptions and permitted clients as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the securities must be made in accordance with an exemption from the prospectus requirements and in compliance with the registration requirements of applicable securities laws.

## **Notice to Prospective Investors in the European Economic Area**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date), no offer of notes may be made to the public in that Relevant Member State other than:

to any legal entity which is a qualified investor as defined in the Prospectus Directive;  
to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representatives; or  
in any other circumstances falling within Article 3(2) of the Prospectus Directive,  
provided that no such offer of notes shall require the Company or the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

Each person in a Relevant Member State (other than a Relevant Member State where there is a Permitted Public Offer) who initially acquires any notes or to whom any offer is made will be deemed to have represented, acknowledged and agreed that (A) it is a qualified investor within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive, and (B) in the case of any notes acquired by it as a financial intermediary, as that term is used in Article 3(2) of the Prospectus Directive, the notes acquired by it in the offering have not been acquired on behalf of, nor have they been acquired with a view to their offer or resale to, persons in any Relevant Member State other than qualified investors as defined in the Prospectus Directive, or in circumstances in which the prior consent of the Subscribers has been given to the offer or resale. In the case of any notes being offered to a financial intermediary as that term is used in Article 3(2) of the Prospectus Directive, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the notes acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any notes to the public other than their offer or resale in a Relevant Member State to qualified investors as so defined or in circumstances in which the prior consent of the representatives has been obtained to each such proposed offer or resale.

The Company, the representatives and their affiliates will rely upon the truth and accuracy of the foregoing representation, acknowledgement and agreement.

This prospectus supplement has been prepared on the basis that any offer of notes in any Relevant Member State will be made pursuant to an exemption under the Prospectus Directive from the requirement to publish a prospectus for offers of notes. Accordingly any person making or intending to make an offer in that Relevant Member State of notes which are the subject of the offering contemplated in this prospectus supplement may only do so in circumstances in which no obligation arises for the Company or any of the underwriters to publish a prospectus pursuant to Article 3 of the Prospectus Directive in relation to such offer. Neither the Company nor the underwriters have authorized, nor do

they authorize, the making of any offer of notes in circumstances in which an obligation arises for the Company or the underwriters to publish a prospectus for such offer.

For the purpose of the above provisions, the expression an offer to the public in relation to any notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to

S-80

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## TABLE OF CONTENTS

purchase or subscribe the notes, as the same may be varied in the Relevant Member State by any measure implementing the Prospectus Directive in the Relevant Member State and the expression "Prospectus Directive" means Directive 2003/71/EC (including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member States) and includes any relevant implementing measure in the Relevant Member State and the expression "2010 PD Amending Directive" means Directive 2010/73/EU.

### **Notice to Prospective Investors in the United Kingdom**

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Directive) (i) who have professional experience in matters relating to investments falling within Article 19 (5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Order") and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons"). This document must not be acted on or relied on in the United Kingdom by persons who are not relevant persons. In the United Kingdom, any investment or investment activity to which this document relates is only available to, and will be engaged in with, relevant persons.

### **Notice to Prospective Investors in Switzerland**

The notes may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange ("SIX") or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the notes or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company, the notes have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of the notes will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of the notes has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes ("CISA"). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of the notes.

### **Notice to Prospective Investors in the Dubai International Financial Centre**

This prospectus supplement relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority ("DFSA"). This prospectus supplement is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus supplement nor taken steps to verify the information set forth herein and has no responsibility for the prospectus supplement. The notes to which this prospectus supplement relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the notes offered should conduct their own due diligence on the notes. If you do not understand the contents of this prospectus supplement you should

consult an authorized financial advisor.

## **Notice to Prospective Investors in Australia**

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission (ASIC), in relation to the offering. This prospectus does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001 (the Corporations Act), and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the notes may only be made to persons (the Exempt Investors) who are sophisticated investors (within the meaning of section 708(8) of the Corporations Act), professional investors (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or

S-81

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## TABLE OF CONTENTS

more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the notes without disclosure to investors under Chapter 6D of the Corporations Act.

The notes applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act.

Further, any shares of common stock issued on conversion of the notes must not be offered for sale in Australia in the period of 12 months after the date of issue of those shares except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring notes or shares must observe such Australian on-sale restrictions.

This prospectus supplement contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this prospectus supplement is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

## **Notice to Prospective Investors in Hong Kong**

The notes have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to professional investors as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a prospectus as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the notes has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to notes which are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

## **Notice to Prospective Investors in Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of notes may not be circulated or distributed, nor may the notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the SFA), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which  
(a) is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or

(b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

S-82

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TABLE OF CONTENTS

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the notes pursuant to an offer made under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
  - (b) where no consideration is or will be given for the transfer;
  - (c) where the transfer is by operation of law;
  - (d) as specified in Section 276(7) of the SFA; or
- (e) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

S-83

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TABLE OF CONTENTS

# MATERIAL U.S. FEDERAL INCOME AND ESTATE TAX CONSIDERATIONS

The following is a summary of material U.S. federal income and estate tax consequences of the ownership of notes and the shares of common stock into which the notes may be converted, as of the date hereof. Except where noted, this summary deals only with a note or share of common stock held as a capital asset by a beneficial owner who purchases a note on original issuance at its initial offering price, and does not represent a detailed description of the U.S. federal income and estate tax consequences applicable to you if you are subject to special treatment under the U.S. federal income or estate tax laws, including if you are:

- a dealer in securities or currencies;
  - a financial institution;
- a regulated investment company;
- a real estate investment trust;
- a tax-exempt organization;
- an insurance company;
- a person holding the notes as part of a hedging, integrated, conversion or constructive sale transaction or a straddle;
- a trader in securities that has elected the mark-to-market method of tax accounting for your securities;
- a person liable for alternative minimum tax;
- a person who is an investor in a pass-through entity;
- a U.S. person whose functional currency is not the U.S. dollar;
  - a controlled foreign corporation ;
  - a passive foreign investment company ; or
  - a United States expatriate.

The summary is based upon the provisions of the Internal Revenue Code of 1986, as amended (the Code ), and regulations, rulings and judicial decisions as of the date hereof. Those authorities may be changed, perhaps retroactively, so as to result in U.S. federal income and estate tax consequences different from those summarized below. This summary does not address all aspects of U.S. federal income and estate taxes and does not deal with all tax considerations that may be relevant to holders in light of their personal circumstances.

For purposes of this discussion, a U.S. holder is a beneficial owner of a note that is:

- an individual citizen or resident of the United States;
- a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- 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.

The term non-U.S. holder means a beneficial owner of a note or share of common stock (other than a partnership) that is not a U.S. holder. Special rules may apply to certain non-U.S. holders such as controlled foreign corporations and passive foreign investment companies. Such entities should consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them.



## TABLE OF CONTENTS

If a partnership holds the notes or common stock, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding the notes or common stock, you should consult your own tax advisors.

**If you are considering the purchase of notes, you should consult your own tax advisors concerning the particular U.S. federal income and estate tax consequences to you of the ownership of the notes and common stock, as well as the consequences to you arising under the laws of any other taxing jurisdiction.**

## **U.S. Holders**

The following discussion is a summary of the material U.S. federal income tax consequences that will apply to you if you are a U.S. holder of notes or common stock.

### **Payment of Interest**

It is expected and this discussion assumes that the notes will not be issued with more than a *de minimis* amount of original issue discount. Stated interest on a note will generally be taxable to you as ordinary income at the time it is paid or accrued in accordance with your usual method of accounting for tax purposes.

### **Sale, Exchange, Repurchase, or Other Taxable Disposition of Notes**

Except as provided below under **Conversion of Notes into Cash or a Combination of Cash and Common Stock** you will generally recognize gain or loss upon the sale, exchange, repurchase or other taxable disposition of a note equal to the difference between the amount realized (less accrued interest, which will be taxable as such) upon the sale, exchange, repurchase or other taxable disposition and your adjusted tax basis in the note. Your tax basis in a note will generally be equal to the amount you paid for the note. Any gain or loss recognized on a taxable disposition of the note will be capital gain or loss and will be long-term gain or loss if, at the time of the taxable disposition, you have held the note for more than one year. If you are an individual, long-term capital gain will be subject to reduced rates of taxation. Your ability to deduct capital losses may be limited.

### **Conversion of Notes only into Common Stock**

You will not recognize any income, gain or loss on the conversion of your notes into shares of common stock except to the extent of cash received in lieu of a fractional share of common stock and except to the extent of amounts received with respect to accrued interest (which will be taxable as such). The amount of gain or loss on receipt of cash in lieu of a fractional share will be equal to the difference between the amount of cash you receive in respect of such fractional share, and the portion of your tax basis in your note that is allocable to the fractional share. The tax basis of the shares of common stock received upon a conversion will equal the adjusted tax basis of the note that was converted plus any income attributable to accrued interest, reduced by the portion of the tax basis that is allocable to any fractional share. Your holding period for shares of common stock will include the period during which you held the notes.

## **Conversion of Notes into Cash or a Combination of Cash and Common Stock**

If you receive solely cash in exchange for your notes upon conversion, your gain or loss will be determined in the same manner as if you disposed of the notes in a taxable disposition (as described above under **Sale, Exchange, Repurchase or Other Taxable Disposition of Notes** ). The tax treatment of your conversion of a note into cash and common stock is not entirely clear. If a combination of cash and stock is received in exchange for your notes upon conversion, we intend to take the position that gain, but not loss, will be recognized equal to the excess of the fair market value of the common stock and cash received (other than amounts attributable to accrued interest, which will be treated as such, but including any fractional share deemed received) over your adjusted tax basis in the note, but in no event should the gain recognized exceed the amount of cash received (other than cash attributable to accrued interest or in lieu of a fractional share).

The amount of gain or loss recognized on the receipt of cash in lieu of a fractional share will be equal to the difference between the amount of cash you receive in respect of the fractional share and the portion of your adjusted tax basis in the common stock that is allocable to the fractional share.

S-85

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## TABLE OF CONTENTS

The tax basis of the shares of common stock received upon a conversion (other than common stock attributable to accrued interest, the tax basis of which will equal its fair market value, but including any fractional share deemed received) will equal the adjusted tax basis of the note that was converted, reduced by the amount of any cash received (other than cash received in lieu of a fractional share or cash attributable to accrued interest), and increased by the amount of gain, if any, recognized (other than with respect to a fractional share). Your holding period for shares of common stock will include the period during which you held the notes except that the holding period of any common stock received with respect to accrued interest will commence on the day after the date of receipt.

An alternative characterization would treat the cash payment received on conversion as proceeds from a sale of a portion of the note, and would tax the sale portion in the manner described under *Sale, Exchange, Repurchase, or Other Taxable Disposition of the Notes* above. Under this alternative characterization, a U.S. holder would not recognize gain or loss with respect to our common stock received (other than stock attributable to accrued interest), and the U.S. holder's holding period for that stock would include the period during which the U.S. holder held the notes. In this case, the U.S. holder's basis in the note would be allocated *pro rata* between the common stock and cash received, in accordance with their fair market values.

You should consult your tax advisors regarding the tax treatment of the receipt of cash and stock in exchange for notes upon conversion and the ownership of our common stock.

## **Constructive Distributions**

The conversion rate of the notes will be adjusted in certain circumstances. Under Section 305(c) of the Code and applicable Treasury regulations, adjustments (or failures to make adjustments) that have the effect of increasing your proportionate interest in our assets or earnings and profits may in some circumstances result in a deemed distribution to U.S. holders of the notes. Adjustments to the conversion rate made pursuant to a bona fide reasonable adjustment formula that has the effect of preventing the dilution of the interest of the holders of the notes, however, will generally not be considered to result in a deemed distribution to U.S. holders of the notes. Certain of the possible conversion rate adjustments provided in the notes (including, without limitation, adjustments in respect of taxable dividends to holders of our common stock and as discussed in *Description of Notes – Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change or the Hexis Spin-off* ) may not qualify as being pursuant to a bona fide reasonable adjustment formula. If such adjustments are made, the U.S. holders of notes will be deemed to have received a distribution even though they have not received any cash or property as a result of such adjustments. Such a distribution might be treated as a taxable dividend paid to U.S. holders of the notes (with an increase in their adjusted tax basis in the notes by the same amount). It is not clear whether a constructive dividend deemed paid to U.S. holders of the notes would be eligible for the preferential rates of U.S. federal income tax. It is also unclear whether corporate holders would be entitled to claim the dividends received deduction with respect to any such constructive dividends.

## **Information Reporting and Backup Withholding**

Information reporting requirements generally will apply to payments of interest on the notes and dividends on shares of common stock and to the proceeds of a sale of a note or share of common stock paid to you unless you are an exempt recipient such as a corporation. Backup withholding will apply to those payments if you fail to provide your taxpayer identification number or certification of exempt status, or if you fail to report interest and dividend income in full.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the Internal Revenue Service (the "IRS").

## **Non-U.S. Holders**

The following is a summary of the U.S. federal tax consequences that will apply to you if you are a non-U.S. holder of notes or shares of common stock.

S-86

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TABLE OF CONTENTS

## Payments of Interest

The 30% U.S. federal withholding tax will not apply to any payment to you of interest on a note under the portfolio interest rule provided that:

interest paid on the note is not effectively connected with your conduct of a trade or business in the United States; you do not actually (or constructively) own 10% or more of the total combined voting power of all classes of our voting stock within the meaning of the Code and applicable U.S. Treasury regulations;

you are not a controlled foreign corporation that is related to us through stock ownership;

you are not a bank whose receipt of interest on a note is described in section 881(c)(3)(A) of the Code; and either (a) you provide your name and address on a properly executed IRS Form W-8BEN (or other applicable form), and certify, under penalties of perjury, that you are not a U.S. person or (b) you hold your notes through certain foreign intermediaries and satisfy the certification requirements of applicable U.S. Treasury regulations.

Special rules apply to non-U.S. holders that are pass-through entities rather than corporations or individuals.

If you cannot satisfy the requirements described above, payments of interest made to you will be subject to the 30% U.S. federal withholding tax, unless you provide us or the applicable withholding agent with a properly executed:

IRS Form W-8BEN (or other applicable form) claiming an exemption from or reduction in withholding under the benefit of an applicable income tax treaty; or

IRS Form W-8ECI (or other applicable form) stating that interest paid on the notes is not subject to withholding tax because it is effectively connected with your conduct of a trade or business in the United States.

If you are engaged in a trade or business in the United States and interest on the notes is effectively connected with the conduct of that trade or business and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment, then you will be subject to U.S. federal income tax on that interest on a net income basis

(although you will be exempt from the 30% U.S. federal withholding tax, provided the certification requirements discussed above are satisfied) in the same manner as if you were a U.S. person as defined under the Code. In addition, if you are a foreign corporation, you may be subject to a branch profits tax equal to 30% (or lower applicable income tax treaty rate) of earnings and profits for the taxable year, subject to adjustments, that are effectively connected with your conduct of a trade or business in the U.S.

## Distributions and Constructive Distributions

Any distributions paid to you with respect to the shares of common stock into which your notes were converted (and any deemed distributions resulting from certain adjustments, or failure to make adjustments, to the conversion rate including, without limitation, adjustments in respect of taxable dividends to holders of our common stock, see U.S.

Holders Constructive Distributions above) will be subject to withholding tax at a 30% rate (or lower applicable income tax treaty rate). However, dividends that are effectively connected with the conduct of a trade or business within the United States and, where a tax treaty applies, are attributable to a U.S. permanent establishment, are not subject to the withholding tax, but instead are subject to U.S. federal income tax on a net income basis at applicable graduated individual or corporate rates. Certain certification requirements and disclosure requirements must be complied with in order for effectively connected income to be exempt from withholding. Any such effectively connected income received by a foreign corporation may, under certain circumstances, be subject to an additional branch profits tax at a 30% rate (or lower applicable income tax treaty rate).





## TABLE OF CONTENTS

A non-U.S. holder of shares of common stock who wishes to claim the benefit of an applicable treaty rate is required to satisfy applicable certification and other requirements. If you are eligible for a reduced rate of United States withholding tax pursuant to an income tax treaty, you may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the IRS.

## **Sale, Exchange, Repurchase, Conversion or Other Disposition of Notes or Shares of Common Stock**

You will recognize gain on the sale, exchange, repurchase or other taxable disposition of a note, or shares of common stock, as well as upon the conversion of a note into cash or into a combination of cash and stock. Nevertheless, such gain generally will not be subject to U.S. federal income tax unless:

that gain is effectively connected with your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment);

you are an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or

we are or have been a U.S. real property holding corporation for U.S. federal income tax purposes.

If you are an individual described in the first bullet point above, you will be subject to tax on the net gain derived from the sale, exchange, repurchase, conversion or other taxable disposition under regular graduated U.S. federal income tax rates. If you are an individual described in the second bullet point above, you will be subject to a flat 30% tax on the gain derived from the sale, exchange, repurchase, conversion or other taxable disposition, which may be offset by U.S. source capital losses, even though you are not considered a resident of the United States. If you are a foreign corporation that falls under the first bullet point above, you will be subject to tax on your net gain in the same manner as if you were a U.S. person as defined under the Code and, in addition, you may be subject to a branch profits tax equal to 30% of your effectively connected earnings and profits or at such lower rate as may be specified by an applicable income tax treaty.

We believe that we currently are not, and we do not anticipate becoming, a U.S. real property holding corporation.

Any stock or cash which you receive on the sale, exchange, redemption, conversion or other disposition of a note which is attributable to accrued interest will be subject to U.S. federal income tax in accordance with the rules for taxation of interest described above under Payments of Interest.

## **United States Federal Estate Tax**

Your estate, provided you are not a resident of the United States for federal estate tax purposes, will not be subject to U.S. federal estate tax on notes beneficially owned by you at the time of your death, provided that interest paid on the note would not have been effectively connected with your conduct of a trade or business in the United States and you did not actually (or constructively) own 10% or more of the total combined voting power of all classes of our voting stock within the meaning of the Code and applicable U.S. Treasury regulations. However, shares of common stock held by you at the time of your death will be included in your gross estate for U.S. federal estate tax purposes unless an applicable estate tax treaty provides otherwise.

## Information Reporting and Backup Withholding

Generally, we must report to the IRS and to you the amount of interest and dividends paid to you and the amount of tax, if any, withheld with respect to those payments. Copies of the information returns reporting such interest payments and any withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty.

In general, you will not be subject to backup withholding with respect to payments of interest or dividends that we make to you provided that we do not have actual knowledge or reason to know that you are a U.S. person, as defined under the Code, and we have received from you the statement described above in the last bullet point under Payments of Interest. In addition, no information reporting or backup withholding

S-88

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TABLE OF CONTENTS

will be required regarding the proceeds of the sale of a note made within the United States or conducted through certain U.S.-related financial intermediaries, if the payor receives the statement described above and does not have actual knowledge or reason to know that you are a U.S. person, as defined under the Code, or you otherwise establish an exemption. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the IRS.

## **FATCA Withholding**

Legislation commonly known as the Foreign Account Tax Compliance Act ( FATCA ) could impose a withholding tax of 30% on interest income and constructive dividends, if any, on the notes, as well as any dividends on our common stock paid to you or any non-U.S. person or entity that receives such income (a non-U.S. payee ) on your behalf, unless you and each such non-U.S. payee in the payment chain comply with the applicable information reporting, account identification, withholding, certification and other FATCA-related requirements. This withholding tax could also apply to all payments made on or after January 1, 2017 upon the sale, exchange, redemption or maturity of the notes or the sale or exchange of our common stock by a non-compliant payee. In the case of a payee that is a non-U.S. financial institution (for example, a clearing system, custodian, nominee or broker), withholding generally will not be imposed if the financial institution complies with the requirements imposed by FATCA to collect and report (to the U.S. or another relevant taxing authority) substantial information regarding such institution's U.S. account holders (which would include some account holders that are non-U.S. entities but have U.S. owners). Other payees, including individuals, may be required to provide proof of tax residence or waivers of confidentiality laws and/or, in the case of non-U.S. entities, certification or information relating to their U.S. ownership.

Withholding may be imposed at any point in a chain of payments if the payee is not compliant. A chain may work as follows, for example: The payment is transferred through a paying agent to a clearing system, the clearing system makes a payment to each of the clearing system's participants, and finally the clearing system participant makes a payment to a non-U.S. bank or broker through which you hold the notes or common stock, who credits the payment to your account. Accordingly, if you receive payments through a chain that includes one or more non-U.S. payees, such as a non-U.S. bank or broker, the payment could be subject to withholding if, for example, your non-U.S. bank or broker through which you hold the notes or common stock fails to comply with the FATCA requirements and is subject to withholding. This would be the case even if you would not otherwise have been directly subject to withholding.

A number of countries have entered into, and other countries are expected to enter into, agreements with the U.S. to facilitate the type of information reporting required under FATCA. While the existence of such agreements will not eliminate the risk that notes or common stock will be subject to the withholding described above, these agreements are expected to reduce the risk of the withholding for investors in (or investors that indirectly hold notes through financial institutions in) those countries.

Depending on your circumstances, you may be entitled to a refund or credit in respect of some or all of this withholding. However, even if you are entitled to have any such withholding refunded, the required procedures could be cumbersome and significantly delay your receipt of any withheld amounts. You should consult your own tax advisors regarding FATCA. You should also consult your bank or broker through which you would hold the notes or common stock about the likelihood that payments to it (for credit to you) may become subject to withholding in the payment chain. We will not pay any additional amounts in respect of this withholding tax, so if this withholding applies, you will receive less than the amount that you would have otherwise received.



TABLE OF CONTENTS

## LEGAL MATTERS

The validity of the securities offered will be passed on for us by our counsel, Holland & Knight LLP, McLean, Virginia. Davis Polk & Wardwell LLP will pass upon certain legal matters for the underwriters in connection with this offering.

## EXPERTS

The audited consolidated financial statements, and management's assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus supplement have been so incorporated by reference in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document we file at the SEC's public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room.

The SEC allows us to incorporate by reference the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus supplement and the accompanying prospectus, and information that we file later with the SEC will automatically update and supersede this information. This prospectus supplement incorporates by reference our documents listed below and any subsequent filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act (other than information in current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits filed on such form that are related to such items) after the date of this prospectus supplement and prior to the termination of the offering of the notes covered by this prospectus supplement:

Annual Report on Form 10-K for the fiscal year ended December 31, 2013 (filed on March 10, 2014);

Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2014 (filed on May 1, 2014);

Current Reports on Form 8-K dated March 13, 2014 (filed on March 19, 2014), dated March 20, 2014 (filed on March 20, 2014), dated March 25, 2014 (filed on March 31, 2014), dated June 16, 2014 (filed on June 16, 2014) and dated January 31, 2014 (filed on July 7, 2014); and

Registration Statement on Form 8-A, dated September 28, 2010 (filed on September 28, 2010), registering our common stock under Section 12(b) of the Exchange Act.

Any statement contained in a document filed before the date of this prospectus supplement and incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus supplement to the extent that a statement contained herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus supplement. Any information that we file after the date of this prospectus supplement with the SEC will automatically update and supersede the information contained in this prospectus supplement. Notwithstanding the foregoing, we are not incorporating any document or portion thereof or information deemed to have been furnished and not filed in accordance with SEC rules.

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Potential investors may obtain a copy of any of our SEC filings, excluding exhibits, without charge, by written or oral request directed to The KEYW Holding Corporation, Attention: Investor Relations, 7740 Milestone Parkway, Suite 400, Hanover, Maryland, 21076.

S-90

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TABLE OF CONTENTS

## Prospectus

### THE KEYW HOLDING CORPORATION

# \$150,000,000 of Common Stock, Preferred Stock, Warrants, Debt Securities, Units and Guarantees of Debt Securities

By this prospectus, we may offer and sell from time to time, in one or more offerings, our common stock, preferred stock, warrants, debt securities and units at an aggregate initial offering price not to exceed \$150,000,000. Our debt securities may be guaranteed by one or more of the co-registrants, each of which is a wholly-owned or indirect subsidiary of The KEYW Holding Corporation.

In this prospectus, we refer to the common stock, preferred stock, warrants, debt securities, units, or guarantees of debt securities or any combination of the foregoing securities to be sold by us in a primary offering collectively as shelf securities. The total dollar amount of all shelf securities that we may issue under this prospectus will not exceed \$150,000,000. The securities may be offered separately, together, or in series, and in amounts, at prices and on other terms to be determined at the time of each offering. We will provide the specific terms of the securities to be sold in a prospectus supplement.

We may sell the securities directly to investors, through agents designated from time to time, or to or through underwriters or dealers, among other methods. The prospectus supplement for each offering will describe the specific methods by which we will sell the securities. The prospectus supplement also will set forth the price to the public of such securities and the net proceeds we expect to receive from the sale of the securities.

This prospectus may not be used to consummate the sale of any securities unless accompanied by a prospectus supplement relating to the securities to be sold. You should read this prospectus and any prospectus supplements carefully before you invest.

Our common stock is listed for trading on the NASDAQ under the symbol KEYW. On May 7, 2014, the last reported sale price of our common stock was \$10.92.

**Investing in our securities involves a high degree of risk. See the section entitled Risk Factors appearing on page 4 in this prospectus and elsewhere in any supplements for a discussion of information that should be considered in connection with an investment in our securities.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is May 14, 2014



You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized anyone to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted.

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TABLE OF CONTENTS

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may, from time to time, sell or issue any combination of shelf securities in one or more offerings with a maximum aggregate offering price of up to \$150,000,000.

Our debt securities may be guaranteed by one or more of the co-registrants, each of which is a wholly-owned or indirect subsidiary of The KEYW Holding Corporation. Any such guarantees will be full and conditional, joint and several, and will be described in the applicable prospectus supplement for the debt securities to which such guarantees relate.

This prospectus provides you with a general description of the shelf securities we may offer. Each time securities are sold by us, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement, together with the additional information described below under the heading *Where You Can Find More Information*.

**This prospectus may not be used to offer or sell any securities unless accompanied by a prospectus supplement relating to the securities offered.**

You should not assume that the information appearing in this prospectus is accurate as of any date other than the date on the front cover of this prospectus. You should not assume that the information contained in the documents incorporated by reference in this prospectus is accurate as of any date other than the respective dates of those documents. Our business, financial condition, results of operations, and prospects may have changed since that date.

References in this prospectus to *KEYW*, the *Company* and *we*, *us* and *our* refer to The KEYW Holding Corporation, a Maryland corporation, and its subsidiaries. The phrase *this prospectus* refers to this prospectus and any applicable prospectus supplement, unless the context otherwise requires.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document we file at the SEC's public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room.

The SEC allows us to incorporate by reference the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. This prospectus (i) incorporates by reference our documents listed below, (ii) shall be deemed to incorporate by reference all filings filed by us pursuant to the Exchange Act after the date of the initial registration statement and prior to effectiveness of the registration statement, and (iii) incorporates by reference any subsequent filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, until all of the securities are sold.

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Annual Report on Form 10-K for the fiscal year ended December 31, 2013 (filed on March 10, 2014);

Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2014;

Current Reports on Form 8-K dated March 13, 2014 (filed on March 19, 2014), dated March 20, 2014 (filed on March 20, 2014) and dated March 25, 2014 (filed on March 31, 2014); and

1

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## TABLE OF CONTENTS

Registration Statement on Form 8-A, dated September 28, 2010 (filed on September 28, 2010), registering our common stock under Section 12(b) of the Exchange Act.

Any statement contained in a document filed before the date of this prospectus and incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. Any information that we file after the date of this prospectus with the SEC will automatically update and supersede the information contained in this prospectus.

Notwithstanding the foregoing, we are not incorporating any document or portion thereof or information deemed to have been furnished and not filed in accordance with SEC rule.

Potential investors may obtain a copy of any of our SEC filings, excluding exhibits, without charge, by written or oral request directed to KEYW Corporation, Attention: Investor Relations, 7740 Milestone Parkway, Suite 400, Hanover, Maryland, 21076.

## **NOTE ON FORWARD-LOOKING STATEMENTS**

The matters discussed in this prospectus may constitute forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. These statements involve known and unknown risks, uncertainties, and other factors that may cause our actual results, activity levels, performance or achievements to be materially different from any future results, activity levels, performance or achievements expressed or implied by such forward-looking statements. In some cases, you can identify these statements by forward-looking words such as *could*, *expect*, *estimate*, *may*, *potential*, *will*, and *would*, or similar words. You should read statements that contain these words carefully because they discuss our future expectations, contain projections of our future results of operations or of our financial position, or state other forward-looking information. There may be events in the future that we are not able to predict or control accurately, and numerous factors may cause events, our results of operations, financial performance, achievements, or industry performance, to differ materially from those reflected in the forward-looking statements. The factors listed in the section captioned *Risk Factors*, contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2013, as well as any cautionary language in such Annual Report and the other reports we file under the Securities Exchange Act of 1934, as amended, provide examples of such risks, uncertainties, and events.

You should not place undue reliance on these forward-looking statements, which apply only as of the date of this Annual Report. Subsequent events and developments may cause our views to change. While we may elect to update the forward-looking statements at some point in the future, we specifically disclaim any obligation to do so.

## **THE COMPANY**

KEYW is a highly specialized provider of mission-critical cybersecurity, cyber superiority and geospatial intelligence solutions to US Government defense, intelligence and national security agencies and commercial enterprises. Our core capabilities include solutions, services and products to support the collection, processing, analysis, use of intelligence data and information in the domains of cyberspace and geospace, and the protection of networks and related infrastructure. Our solutions are designed to respond to meet the critical needs for agile intelligence in the cyber age and to assist the US government in national security priorities.

We provide a full range of engineering services, cyber security and analytic products, and fully integrated platforms that support the entire intelligence process, including collection, processing, analysis and impact. Our platforms include a number of modified commercial turboprop aircraft for imagery and light detection and ranging (LIDAR), collection, products that we manufacture, as well as hardware and software that we integrate using the engineering

services of our highly skilled and security-cleared workforce.

Our engineering services solutions are focused on Intelligence Community customers including the National Security Agency (NSA), the National Reconnaissance Office (NRO), the National Geospatial Intelligence Agency (NGA), the Army Geospatial Center (AGC) and various other agencies within the Intelligence Community and Department of Defense (DoD). In addition, we provide our products and services

2

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TABLE OF CONTENTS

to US federal, state and local law enforcement agencies and commercial enterprises. Our innovative solutions, understanding of intelligence and national security missions, management's long-standing and successful customer relationships and operational capabilities, and best-in-class employee base position us to continue our growth as we expand into the cybersecurity market. We are highly focused on assisting our customers in achieving their mission of cyber superiority both defensively and offensively within the entire domain of cyberspace and doing so in time to observe, respond to and where possible prevent threat events, actions and agents from inflicting harm. Additionally, over the past three years, we have expanded our solutions to encompass a broad spectrum of geospatial intelligence or GEOINT, capabilities. We believe today's complex, geographically distributed cyber threat environment is driving a convergence of cyber intelligence and geospatial intelligence.

KEYW's primary areas of expertise include:

providing sophisticated engineering services and solutions that help our customers solve discreet and complex cybersecurity, cyber superiority, and geospatial and other intelligence challenges;

using multiple intelligence collection techniques to collect data and information in cyberspace, encompassing the entire electromagnetic spectrum;

processing data and information from cyberspace to make it accessible to a wide range of analytical needs and resources;

analyzing data and information that have been collected, processed, correlated, and made easily accessible to transform them into usable information for our customers;

developing next generation cyber defense and security incident response platforms designed to detect, investigate, and remove advanced cyber threats from enterprise information technology networks;

developing data warehousing and business intelligence solutions to address the most advanced use cases in Security Information and Event Management, log management, and Call Detail Record (CDR) retention and retrieval;

providing specialized training, field support, and test and evaluation services;

development, integration, rapid deployment and sustainment of agile airborne intelligence, surveillance, and reconnaissance collection platforms to austere environments; and

responding quickly and decisively to demanding and emergent customer requirements, with agile processes and methods that enable us to satisfy requirements that are constantly changing to meet an agile, aggressive and ever-changing threat environment.

The KEYW Holding Corporation, incorporated in Maryland in December 2009, is a holding company and conducts its operations through The KEYW Corporation, Hexis Cyber Solutions, Inc. and their respective subsidiaries. The KEYW Corporation was incorporated in Maryland in May 2008 and began operations on August 4, 2008. The KEYW Corporation became our wholly-owned subsidiary on December 29, 2009, as part of a corporate reorganization. In July 2013, we began operations of Hexis Cyber Solutions, Inc. or Hexis, a subsidiary of The KEYW Holding Corporation, which provides advanced cybersecurity solutions for commercial companies, government agencies, and the Intelligence Community (IC). The Company currently operates in two business segments - Government Solutions and Commercial Cyber Solutions. Since our founding in 2008, we have completed more than 18 acquisitions. We completed our initial public offering in October 2010 and a secondary common stock offering in September 2012.

Our principal executive offices are located at 7740 Milestone Parkway, Suite 400, Hanover, MD 21076, and our telephone number is 443-733-1600. Our common stock is listed on the Nasdaq Global Market under the symbol KEYW .

TABLE OF CONTENTS**RISK FACTORS**

Investing in our securities involves risk. You should carefully consider the specific factors discussed under the caption **Risk Factors** in the applicable prospectus supplement, together with all the other information contained in the prospectus supplement or appearing or incorporated by reference in this prospectus. Additional risks, including those that relate to any particular securities we offer, may be included in a prospectus supplement. You should also consider the risks, uncertainties and assumptions discussed under Item 1A. **Risk Factors** included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2013, which is incorporated by reference in this prospectus, and which will be amended, supplemented or superseded from time to time by other reports we file with the SEC in the future.

**USE OF PROCEEDS**

Unless otherwise indicated in the applicable prospectus supplement, we intend to use the net proceeds from the sale of shelf securities offered hereby for general corporate purposes, which may include working capital, capital expenditures, debt repayment or acquisitions. Our management will retain broad discretion in the allocation of the net proceeds.

**RATIO OF EARNINGS TO FIXED CHARGES**

The table below sets forth our ratio of earnings to fixed charges on a historical basis for the periods indicated. The information set forth in the table should be read in conjunction with the financial information incorporated by reference into this prospectus.

	Twelve Months ended 12/31/2013	Twelve Months ended 12/31/2012	Twelve Months ended 12/31/2011	Twelve Months ended 12/31/2010	Twelve Months ended 12/31/2009
Interest expense	\$3,508,000	\$2,307,000	\$907,000	\$1,661,000	\$
Pre tax Income (loss)	\$(19,639,000)	\$929,000	\$753,000	\$18,720,000	(3,092,000)
Total earnings	\$(16,131,000)	\$3,236,000	\$1,660,000	\$20,381,000	(3,092,000)
Ratio of earnings to fixed charges	(4.6 )	1.4	1.8	12.3	N/A

The ratios are calculated by dividing earnings by fixed charges. For the purposes of computing the ratio of earnings to fixed charges, earnings consist of pretax income from continuing operations plus fixed charges. Fixed charges consist of interest expense.

We had no shares of preferred stock outstanding for any period presented.

TABLE OF CONTENTS

## **DESCRIPTION OF CAPITAL STOCK**

The following description of our capital stock, together with the additional information we may include in any prospectus supplements (which may differ from the terms summarized below), summarizes the material terms and provisions of our capital stock that we may offer under this prospectus. For the complete terms of our capital stock, please refer to our articles of incorporation and bylaws that are filed as exhibits to the reports incorporated by reference into the registration statement that includes this prospectus. Additionally, the Maryland General Corporation Law, as amended (the "MGCL") may also affect the terms of our capital stock.

### **Common Stock**

The holders of shares of common stock are entitled to one vote per share held on all matters submitted to a vote at a meeting of stockholders. Each stockholder may exercise its vote either in person or by proxy. Stockholders are not entitled to cumulate their votes for the election of directors, which means that, subject to any rights as may be granted to the holders of shares of preferred stock, if any, the holders of more than 50% of the outstanding shares of common stock are able to elect all of the directors to be elected by holders of shares of common stock and the holders of the remaining shares of common stock will not be able to elect any director. Subject to any preferences to which holders of shares of preferred stock, if any, may be entitled, the holders of outstanding shares of common stock are entitled to receive ratably the dividends, if any, as may be declared from time to time by the board of directors out of funds legally available therefore. In the event that we liquidate, dissolve or wind up, the holders of outstanding shares of common stock are entitled to share ratably in all of our assets which are legally available for distribution to stockholders, subject to the prior rights on liquidation of creditors and to preferences, if any, to which holders of shares of preferred stock, if any, may be entitled. The holders of outstanding shares of common stock do not have any preemptive, subscription, redemption or sinking fund rights. The outstanding shares of common stock are, and the shares to be issued in the offering will, upon issuance and sale as contemplated hereby, be duly authorized, validly issued, fully paid and nonassessable.

### **Preferred Stock**

Our articles of incorporation authorizes us to issue up to 5,000,000 shares of preferred stock, in one or more series and containing the rights, privileges and limitations, including dividend rights, voting rights, conversion privileges, redemption rights, liquidation rights and/or sinking fund rights, as may from time to time be determined by our board of directors. Preferred stock may be issued in the future in connection with acquisitions, financings or other matters as the board of directors deems to be appropriate. In the event that any shares of preferred stock shall be issued, a certificate of designation, setting forth the series of the preferred stock and the relative rights, privileges and limitations with respect thereto, is required to be filed with the Maryland State Department of Assessments and Taxation. The effect of having preferred stock authorized is that our board of directors alone, within the bounds and subject to the federal securities laws and the Maryland law, may be able to authorize the issuance of preferred stock, which may adversely affect the voting and other rights of holders of common stock. The issuance of preferred stock may also have the effect of delaying or preventing a change-of-control of the Company.

You should refer to the prospectus supplement relating to the series of preferred stock being offered for a description of the specific terms of that series, including:

the title of the series and the number of shares in the series;  
the price at which the preferred stock will be offered;



the dividend rate or rates or method of calculating the rates, the dates on which the dividends will be payable, whether or not dividends will be cumulative or non-cumulative and, if cumulative, the dates from which dividends on the preferred stock being offered will cumulate;

the voting rights, if any, of the holders of shares of the preferred stock being offered;

the provisions for a sinking fund, if any, and the provisions for redemption, if applicable, of the preferred stock being offered;

the liquidation preference per share;

5

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## TABLE OF CONTENTS

the terms and conditions, if applicable, upon which the preferred stock being offered will be convertible into our common stock, including the conversion price, or the manner of calculating the conversion price, and the conversion period;

the terms and conditions, if applicable, upon which the preferred stock being offered will be exchangeable for debt securities, including the exchange price, or the manner of calculating the exchange price, and the exchange period;

any listing of the preferred stock being offered on any securities exchange;

whether interests in the shares of the series will be represented by depositary shares;

a discussion of any material Federal income tax considerations applicable to the preferred stock being offered; the relative ranking and preferences of the preferred stock being offered as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;

any limitations on the issuance of any class or series of preferred stock ranking senior or equal to the series of preferred stock being offered as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs; and

any additional rights, preferences, qualifications, limitations and restrictions of the series.

The preferred stock of each series will rank senior to the common stock in priority of payment of dividends, and in the distribution of assets in the event of any liquidation, dissolution or winding up of our affairs, to the extent of the preferential amounts to which the preferred stock of the respective series will be entitled.

Upon issuance, the shares of preferred stock will be fully paid and non-assessable, which means that their holders will have paid their purchase price in full and we may not require them to pay additional funds. Holders of preferred stock will not have any preemptive rights.

The transfer agent and registrar for the preferred stock will be identified in the applicable prospectus supplement.

## **No Preemptive Rights**

No holder of any of our stock of any class authorized has any preemptive right to subscribe for any of our securities of any kind or class.

## **Transfer Agent and Registrar**

The Transfer Agent and Registrar for our common stock is Registrar and Transfer Company.

## **Warrants**

In conjunction with the private placement of our common stock to investors and in certain acquisitions, we have from time to time issued warrants to purchase shares of our common stock. We issued these warrants at a per share exercise price equal to the per share purchase price at which such investors purchased shares of our common stock in these private placements, or, in the case of acquisitions, at the fair market value of our common stock at the acquisition date.

The warrants issued expire seven years from the date of their original issuance.

## **Registration Rights Agreements**

## **2009 Registration Rights Agreement**

Under our May 2009 amended and restated registration rights agreement, certain of our stockholders and directors, including Leonard Moodispaw, The Leonard E. Moodispaw 2009 Grantor Retained Annuity Trust, Caroline Pisano, The Caroline S. Pisano 2009 Irrevocable Trust, John Hannon, The Hannon Family, LLC, and the John G. Hannon Revocable Trust U/A Dated March 9, 2004 have registration rights with respect to certain shares of common stock beneficially held by them.

## TABLE OF CONTENTS

These registration rights are as follows:

***Demand Registration Rights.*** Holders of at least 20% of the registrable shares can request that we file up to three registration statements registering all or a portion of their registrable shares. Under specified circumstances, we have the right to defer filing of a requested registration statement for a period of not more than 90 days and may only defer a filing once per calendar year. These registration rights are subject to additional conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances. The number of the demand registrations is limited to three if the registrations cover more than 75% of the amount of the shares requested to be registered.

***Piggy-Back Registration Rights.*** Whenever we propose to file a registration statement under the Securities Act of 1933, as amended (known as the Securities Act) for an offering of common stock for our own account or for the account of any holder or holders of common stock other than a registration statement in connection with employee benefit or acquisition-related matters, the holders of registrable shares are entitled to notice of the registration and have the right to include their registrable shares in such registration. These registration rights are subject to additional conditions and limitations, including the right of the underwriters to limit the number of shares having registration rights to be included in the registration under certain circumstances.

***Form S-3 Registration Rights.*** If we are eligible to file a registration statement on Form S-3, the holders of registrable shares have the right to demand that we file a registration statement, including shelf registration statements, for the requesting holders on Form S-3 so long as the aggregate offering price of securities to be sold under the registration statement on Form S-3 is at least \$1,000,000. These registration rights are subject to additional conditions and limitations, including the right of the underwriters to limit the number of shares having registration rights to be included in the registration under certain circumstances. There is no limit to the number of registrations on Form S-3 that may be requested.

We are required to bear all registration fees and expenses related to the registrations under the registration rights agreement, excluding any transfer taxes relating to the sale of the shares held by the stockholders entitled to registration rights and any underwriting discounts or selling commissions. In addition, we will indemnify the selling stockholders in such transactions.

The registration rights cease to apply to any holder of registrable shares under the registration rights agreement (i) at such time as the holder is eligible to sell, in a single transaction, all of its registrable shares under Rule 144 promulgated under the Securities Act, or (ii) October 6, 2018.

All shareholders who had registration rights under the 2009 registration rights agreement with respect to this registration statement have waived in writing such registration rights.

## **Rsignia Registration Rights Agreement**

Under the registration rights agreement we entered into on November 26, 2012 in connection with our acquisition of Rsignia, Inc., the former shareholders of Rsignia have certain piggy-back registration rights with respect to the shares of our common stock issued to them in the transaction. The registration rights agreement provides that, at any time following May 26, 2013, we propose to file a registration statement covering our own securities under the Securities Act of 1933 (other than a registration statement (i) on Form S-8 or S-4 relating to employee benefit plans or business combinations, (ii) on a form that does not include substantially the same information required to be included in a registration statement covering the former Rsignia shareholders' shares, or (iii) covering only common stock issuable

upon the conversion of other securities), the former Rsignia shareholders are entitled to notice of the registration and have the right to include their registrable shares in such registration. These registration rights are subject to additional conditions and limitations, including the right of underwriters to limit the number of shares having registration rights in underwritten offerings, and our right, at our expense, to terminate or withdraw any registration with respect to which the registration rights would apply before its effectiveness.

7

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## TABLE OF CONTENTS

The former Rsignia shareholders are required to bear all transfer taxes and underwriting discounts or commissions relating to the sale of their shares in connection with any such registration. We are required to pay all other fees and expenses relating to such registration. In addition, we have agreed to indemnify the former Rsignia shareholders from certain liabilities and damages in connection with any such registration and related offering.

All but one of the former Rsignia shareholders who currently have registration rights with respect to this registration statement have waived in writing such registration rights, and it is expected that the Company will receive the outstanding waiver prior to any offering hereunder.

## **Maryland Anti-Takeover Law and Selected Charter and Bylaw Provisions**

The board of directors believes that it is appropriate to include certain provisions as part of our articles of incorporation and our bylaws to be effective upon the completion of this offering to protect the corporation and its stockholders from takeovers which our board of directors might conclude are not in the best interests of KEYW or its stockholders. The following discussion is a general summary of the material provisions of KEYW's articles of incorporation and bylaws and certain other regulatory provisions that may be deemed to have an anti-takeover effect. This is a general description of these provisions and reference should be made in each case to the document in question, each of which is part of this Registration Statement filed with the Securities and Exchange Commission.

**Directors.** As permitted by Subtitle 8 of Title 3 of the Maryland General Corporation Law (the "MGCL"), our articles of incorporation and bylaws provide that directors may only be removed for cause and then only upon a two-thirds supermajority vote of the stockholders. The board of directors has the exclusive right to fill any vacancies on the board regardless of the reason for the vacancy. The advance notice provisions in our Bylaws impose notice and information requirements in connection with the nomination by stockholders of candidates for election to the board of directors or the proposal by stockholders of business to be acted upon at the annual meeting of stockholders.

**Maryland Business Combination Statute.** Under the MGCL, certain business combinations (including a merger, consolidation, share exchange or, in certain circumstances specified under the statute, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and any interested stockholder, or an affiliate of such an interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Maryland law defines an interested stockholder as (i) any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the corporation's voting stock, or (ii) an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approves in advance the transaction by which the person otherwise would have become an interested stockholder. In approving a transaction, however, the board of directors may provide that its approval is subject to compliance at or after the time of the approval, with any terms and conditions determined by the board of directors.

After the five-year prohibition, any business combination between the company and an interested stockholder generally must be recommended by the board of directors and approved by the affirmative vote of at least (i) 30% of the votes entitled to be cast by holders of outstanding voting shares of stock of the corporation, and (ii) two-thirds of the votes entitled to be cast by holders of voting shares of stock of the corporation other than shares held by the interested stockholder with whom (or with whose affiliate) the business combination is to be effected or shares held by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common

stockholders receive a minimum price (as described under Maryland law) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a corporation's board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has by resolution opted out of the business combination provisions of the MGCL and, consequently, the five-year prohibition and the

TABLE OF CONTENTS

supermajority vote requirements will not apply to business combinations between us and an interested stockholder, unless our board in the future alters or repeals this resolution. As a result, any person who later becomes an interested stockholder may be able to enter into business combinations with us without compliance by our company with the supermajority vote requirements and the other provisions of the statute.

We cannot assure you that our board of directors will not determine to become subject to such business combination provisions in the future. However, an alteration or repeal of this resolution will not have any effect on any business combinations that have been consummated or upon any agreements existing at the time of such modification or repeal.

**Control Share Acquisitions.** The MGCL provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved at a special meeting of stockholders by the affirmative vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of stock in a corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of directors: (1) a person who makes or proposes to make a control share acquisition, (2) an officer of the corporation or (3) an employee of the corporation who is also a director of the corporation. Control shares are voting shares of stock that, if aggregated with all other such shares of stock previously acquired by the acquirer or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power (i) one-tenth or more but less than one-third, (ii) one-third or more but less than a majority, or (iii) a majority or more of all voting power.

Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means the acquisition, directly or indirectly, of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses and making an acquiring person statement as described in the MGCL), may compel our board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the control shares. If no request for a special meeting is made, we may present the question at any stockholders meeting.

If voting rights of control shares are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by Maryland law, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition. The control share acquisition statute does not apply (1) to shares acquired in a merger, consolidation or share exchange if we are a party to the transaction or (2) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of our common stock. There is no assurance, however, that our board of directors will not amend or eliminate this provision at any time in the future.



## **Limitation of Liability and Indemnification**

Our articles of incorporation contains provisions permitted under Maryland law limiting the liability of directors to the corporation and its stockholders for money damages with the exception of liability resulting from (i) actual receipt of an improper benefit or profit in money, property or services, or (ii) active and deliberate dishonesty established by a final judgment as being material to the cause of action. These provisions do not limit or eliminate our rights or any stockholders' rights to seek non-monetary relief, such as

9

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## TABLE OF CONTENTS

an injunction or rescission, in the event of a breach of a director's fiduciary duty. These provisions will not alter a director's liability under federal securities laws.

Our bylaws require us to indemnify our directors and executive officers who have been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. Such indemnification is required under Maryland law unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith, or (2) was the result of active and deliberate dishonesty;

the director or officer actually received an improper personal benefit in money, property or services; or in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

Under our bylaws, we may also advance reasonable expenses to a director or officer upon the receipt of (i) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation, and (ii) a written undertaking by the director or on the director's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director did not meet the standard of conduct.

We do not intend to enter into indemnification agreements with each of our current directors and executive officers at this time. We have obtained directors' and officers' liability insurance.

## **DESCRIPTION OF WARRANTS**

We may issue warrants for the purchase of common or preferred stock or any of the other securities that may be sold under this prospectus, or any combination of these securities. Warrants may be issued independently or together with other securities and may be attached to or separate from any offered securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between a warrant agent and us. The warrant agent will act solely as our agent in connection with the warrants and will not have any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants. The following outlines some of the general terms and provisions of the warrants that we may issue from time to time. Additional or different terms of the warrants and the applicable warrant agreement will be set forth in the applicable prospectus supplement.

We will file as an exhibit to the registration statement of which this prospectus is a part, or will incorporate by reference from reports that we file with the SEC, the form of warrant agreement that describes the terms of the series of warrants we are offering before the issuance of those warrants. The following summaries of material provisions of the warrants are subject to, and qualified in their entirety by reference to, all of the provisions of the warrant agreement applicable to a particular series of warrants. We urge you to read the applicable prospectus supplements, as well as the complete warrant agreement that contains the terms of the series of warrants.

### **General**

The prospectus supplement relating to a particular issue of warrants will describe the terms of those warrants and the price or prices at which will offer the warrants. The description may include:

the title of the warrants;  
the offering price for the warrants, if any;

the aggregate number of the warrants;  
the designation and/or terms of the securities purchasable upon exercise of the warrants;  
if applicable, the designation and/or terms of the securities that the warrants are issued with and the number of  
warrants issued with each security;

10

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## TABLE OF CONTENTS

if applicable, the date from and after which the warrants and any securities issued with the warrants will be separately transferable;

the amount and price of securities that may be purchased upon exercise of a warrant;

the dates on which the right to exercise the warrants commence and expire;

if applicable, the minimum or maximum amount of the warrants that may be exercised at any one time;

whether the warrants represented by the warrant certificates or, if applicable, the securities that may be issued upon exercise of the warrants, will be issued in registered or bearer form;

if applicable, information relating to book-entry procedures;

if applicable, a discussion of material U.S. Federal income tax considerations;

anti-dilution provisions of the warrants, if any;

redemption or call provisions, if any, applicable to the warrants; and

any additional terms of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

## **Exercise of Warrants**

Each warrant will entitle the holder of the warrant to purchase at the exercise price set forth in the applicable prospectus supplement the amount of the underlying securities being offered. Holders may exercise warrants at any time up to the close of business on the expiration date set forth in the applicable prospectus supplement. After the close of business on the expiration date, unexercised warrants will be void. Holders may exercise warrants as set forth in the prospectus supplement relating to the warrants being offered.

Until a holder exercises the warrants to purchase any securities underlying the warrants, the holder will not have any rights as a holder of the underlying securities by virtue of ownership of warrants.

## **DESCRIPTION OF DEBT SECURITIES**

We may issue debt securities, in one or more series, as either senior or subordinated debt or as senior or subordinated convertible debt. While the terms we have summarized below will apply generally to any debt securities that we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement. The terms of any debt securities offered under a prospectus supplement may differ from the terms described below. Unless the context requires otherwise, whenever we refer to the indentures, we also are referring to any supplemental indentures that specify the terms of a particular series of debt securities.

Each prospectus supplement will describe, as to the debt securities to which it relates, any guarantees by our subsidiaries which may guarantee the debt securities, including the identity of the subsidiaries that will be the initial guarantors of the series and the terms of subordination, if any, of any such guarantee. The applicable prospectus supplement will also describe provisions for the release of guarantor subsidiaries from their guarantees.

We will issue the senior debt securities under the senior indenture that we will enter into with the trustee to be named in the senior indenture. We will issue the subordinated debt securities under the subordinated indenture that we will enter into with the trustee to be named in the subordinated indenture. The indentures will be qualified under the Trust Indenture Act of 1939. We use the term *debenture trustee* to refer to either the trustee under the senior indenture or the trustee under the subordinated indenture, as applicable. We have filed forms of indentures as exhibits to the registration statement of which this prospectus is a part, and supplemental indentures and forms of debt securities containing the terms of the debt securities being offered will be filed as exhibits to the registration statement of which

this prospectus is a part or will be incorporated by reference from reports that we file with the SEC.

TABLE OF CONTENTS

The following summaries of material provisions of the senior debt securities, the subordinated debt securities and the indentures are subject to, and qualified in their entirety by reference to, all of the provisions of the indenture applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplements, as well as the complete indenture that contains the terms of the debt securities. Except as we may otherwise indicate, the terms of the senior indenture and the subordinated indenture are identical.

**General**

We will describe in the applicable prospectus supplement the terms of the series of debt securities being offered, including:

- the terms (if any) under which the securities will be guaranteed by our subsidiaries;
  - the title;
- the principal amount being offered, and if a series, the total amount authorized and the total amount outstanding;
  - any limit on the amount that may be issued;
- whether or not we will issue the series of debt securities in global form, the terms and who the depository will be;
  - the maturity date;
- whether and under what circumstances, if any, we will pay additional amounts on any debt securities held by a person who is not a U.S. person for tax purposes, and whether we can redeem the debt securities if we have to pay such additional amounts;
- the annual interest rate, which may be fixed or variable, or the method for determining the rate and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;
- whether the interest is payable in property other than cash, including in securities of ours, or by increasing the principal amount of the debt securities;
  - whether or not the debt securities will be secured or unsecured, and the terms of any secured debt;
    - the terms of the subordination of any series of subordinated debt;
    - the place where payments will be payable;
    - restrictions on transfer, sale or other assignment, if any;
  - our right, if any, to defer payment of interest and the maximum length of any such deferral period;
- the date, if any, after which, and the price at which, we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions and the terms of those redemption provisions;
- the date, if any, on which, and the price at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the holder's option to purchase, the series of debt securities and the currency or currency unit in which the debt securities are payable;
  - whether the indenture will restrict our ability to:
    - incur additional indebtedness;
    - issue additional securities;
    - create liens;
  - pay dividends and make distributions in respect of our capital stock;

## TABLE OF CONTENTS

- redeem capital stock;
- make investments or other restricted payments;
- sell or otherwise dispose of assets;
- enter into sale-leaseback transactions;
- engage in transactions with shareholders and affiliates; or
- effect a consolidation or merger;

whether the indenture will require us to maintain any interest coverage, fixed charge, cash flow-based, asset-based or other financial ratios;

- a discussion of any material U.S. Federal income tax considerations applicable to the debt securities;
- information describing any book-entry features;
- provisions for a sinking fund purchase or other analogous fund, if any;
- the applicability of the provisions in the indenture on discharge;

whether the debt securities are to be offered at a price such that they will be deemed to be offered at an original issue discount as defined in paragraph (a) of Section 1273 of the Internal Revenue Code;

the denominations in which we will issue the series of debt securities, if other than denominations of \$1,000 and any integral multiple thereof;

the currency of payment of debt securities if other than U.S. dollars and the manner of determining the equivalent amount in U.S. dollars; and

any other specific terms, preferences, rights or limitations of, or restrictions on, the debt securities, including any additional events of default or covenants provided with respect to the debt securities, and any terms that may be required by us or advisable under applicable laws or regulations.

## **Subsidiary Guarantors**

One or more of our subsidiaries may fully and unconditionally guarantee any series of debt securities offered by this prospectus, as set forth in the applicable prospectus supplement. These subsidiaries are sometimes referred to in this prospectus as possible subsidiary guarantors. The term subsidiary guarantors with respect to a series of debt securities refers to our subsidiaries that guaranty such series of debt securities. The applicable prospectus supplement will name the subsidiary guarantors, if any, for that series of debt securities and will describe the terms of the guarantee by the subsidiary guarantors.

## **Conversion or Exchange Rights**

We will set forth in the prospectus supplement the terms on which a series of debt securities may be convertible into or exchangeable for our common stock or our other securities. We will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option. We may include provisions pursuant to which the number of shares of our common stock or our other securities that the holders of the series of debt securities receive would be subject to adjustment.

## **Consolidation, Merger or Sale**

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the indentures will not contain any covenant that restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of all or substantially all of our assets. However, any successor to or acquirer of such assets must assume all of our obligations under the indentures or the debt securities, as appropriate. If the debt securities are convertible into or exchangeable for our other securities or securities of other entities, the person with whom we consolidate or merge or to whom we sell all of our property must make provisions for the conversion of the debt

securities into securities that the holders of the debt securities would have received if they had converted the debt securities before the consolidation, merger or sale.



TABLE OF CONTENTS

## **Events of Default Under the Indenture**

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the following are events of default under the indentures with respect to any series of debt securities that we may issue:

if we fail to pay interest when due and payable and our failure continues for 90 days and the time for payment has not been extended or deferred;

if we fail to pay the principal, premium or sinking fund payment, if any, when due and payable and the time for payment has not been extended or delayed;

if we fail to observe or perform any other covenant contained in the debt securities or the indentures, other than a covenant specifically relating to another series of debt securities, and our failure continues for 90 days after we receive notice from the debenture trustee or holders of at least a majority of the aggregate principal amount of the outstanding debt securities of the applicable series; and

if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the debenture trustee or the holders of at least a majority of the aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the debenture trustee if notice is given by such holders, may declare the unpaid principal of, premium, if any, and accrued interest, if any, due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each issue of debt securities then outstanding shall be due and payable without any notice or other action on the part of the debenture trustee or any holder.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the indenture. Any waiver shall cure the default or event of default.

Subject to the terms of the indentures, if an event of default under an indenture shall occur and be continuing, the debenture trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the holders of the applicable series of debt securities, unless such holders have offered the debenture trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the debenture trustee, or exercising any trust or power conferred on the debenture trustee, with respect to the debt securities of that series, provided that:

the direction so given by the holder is not in conflict with any law or the applicable indenture; and subject to its duties under the Trust Indenture Act of 1939, the debenture trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding. A holder of the debt securities of any series will have the right to institute a proceeding under the indentures or to appoint a receiver or trustee, or to seek other remedies only if:

the holder has given written notice to the debenture trustee of a continuing event of default with respect to that series;

the holders of at least a majority of the aggregate principal amount of the outstanding debt securities of that series have made written request, and such holders have offered reasonable indemnity to the debenture trustee to institute the proceeding as trustee; and

the debenture trustee does not institute the proceeding, and does not receive from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions within 90 days after the notice, request and offer.



## TABLE OF CONTENTS

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.

We will periodically file statements with the debenture trustee regarding our compliance with specified covenants in the indentures.

## **Modification of Indenture; Waiver**

We and the debenture trustee may change an indenture without the consent of any holders with respect to specific matters:

to fix any ambiguity, defect or inconsistency in the indenture;  
to comply with the provisions described above under Description of Debt Securities Consolidation, Merger or Sale;  
to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act of 1939;  
to add to, delete from or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication and delivery of debt securities, as set forth in the indenture;  
to provide for the issuance of and establish the form and terms and conditions of the debt securities of any series as provided under Description of Debt Securities General, to establish the form of any certifications required to be furnished pursuant to the terms of the indenture or any series of debt securities, or to add to the rights of the holders of any series of debt securities;  
to evidence and provide for the acceptance of appointment hereunder by a successor trustee;  
to provide for uncertificated debt securities in addition to or in place of certificated debt securities and to make all appropriate changes for such purpose;  
to add to our covenants such new covenants, restrictions, conditions or provisions for the protection of the holders, and to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default; or  
to change anything that does not materially adversely affect the interests of any holder of debt securities of any series.

In addition, under the indentures, the rights of holders of a series of debt securities may be changed by us and the debenture trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, we and the debenture trustee may make the following changes only with the consent of each holder of any outstanding debt securities affected:

extending the fixed maturity of the series of debt securities;  
reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption of any debt securities; or  
reducing the percentage of debt securities, the holders of which are required to consent to any amendment, supplement, modification or waiver.

## **Discharge**

Each indenture provides that we can elect to be discharged from our obligations with respect to one or more series of debt securities, except for specified obligations, including obligations to:

register the transfer or exchange of debt securities of the series;  
replace stolen, lost or mutilated debt securities of the series;  
maintain paying agencies;



TABLE OF CONTENTS

hold monies or other property for payment in trust;  
recover excess money held by the debenture trustee;  
compensate and indemnify the debenture trustee; and  
appoint any successor trustee.

In order to exercise our rights to be discharged, we must deposit with the debenture trustee money or government obligations (or, if the debt securities are payable otherwise than in cash, we must have made other arrangements satisfactory to the debenture trustee for payment in property other than cash), sufficient to pay all the principal of, any premium, if any, and interest on, the debt securities of the series on the dates payments are due.

## **Form, Exchange and Transfer**

We will issue the debt securities of each series only in fully registered form without coupons and, unless we provide otherwise in the applicable prospectus supplement, in denominations of \$1,000 and any integral multiple thereof. The indentures provide that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company or another depository named by us and identified in a prospectus supplement with respect to that series. See **Legal Ownership of Securities** for a further description of the terms relating to any book-entry securities.

At the option of the holder, subject to the terms of the indentures and the limitations applicable to global securities described in the applicable prospectus supplement, the holder of the debt securities of any series can exchange the debt securities for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indentures and the limitations applicable to global securities set forth in the applicable prospectus supplement, holders of the debt securities may present the debt securities for exchange or for registration of transfer, duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar, at the office of the security registrar or at the office of any transfer agent designated by us for this purpose. Unless otherwise provided in the debt securities that the holder presents for transfer or exchange, we will impose no service charge for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges.

We will name in the applicable prospectus supplement the security registrar, and any transfer agent in addition to the security registrar, that we initially designate for any debt securities. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If we elect to redeem the debt securities of any series, we will not be required to:

issue, register the transfer of, or exchange any debt securities of that series during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing; or  
register the transfer of or exchange any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities we are redeeming in part.

## Information Concerning the Debenture Trustee

The debenture trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only those duties as are specifically set forth in the applicable indenture. Upon an event of default under an indenture, the debenture trustee must use the same degree of care as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the debenture trustee is under no obligation to exercise any of the powers given it by the indentures at the request of any holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses and liabilities that it might incur.

TABLE OF CONTENTS

## **Payment and Paying Agents**

Unless we otherwise indicate in the applicable prospectus supplement, we will make payment of the interest on any debt securities on any interest payment date to the person in whose name the debt securities, or one or more predecessor securities, are registered at the close of business on the regular record date for the interest.

We will pay principal of and any premium and interest on the debt securities of a particular series at the office of the paying agents designated by us, except that unless we otherwise indicate in the applicable prospectus supplement, we will make interest payments by check that we will mail to the holder or by wire transfer to certain holders (or, if the debt securities are payable otherwise than in cash, in accordance with provisions set forth in the prospectus supplement). Unless we otherwise indicate in the applicable prospectus supplement, we will designate the corporate trust office of the debenture trustee in the City of New York as our sole paying agent for payments with respect to debt securities of each series. We will name in the applicable prospectus supplement any other paying agents that we initially designate for the debt securities of a particular series. We will maintain a paying agent in each place of payment for the debt securities of a particular series.

All money or other property we pay to a paying agent or the debenture trustee for the payment of the principal of or any premium or interest on any debt securities that remains unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the holder of the debt security thereafter may look only to us for payment thereof.

## **Governing Law**

The indentures, the debt securities and any guarantees of the debt securities will be governed by and construed in accordance with the laws of the State of Maryland, except to the extent that the Trust Indenture Act of 1939 is applicable.

## **Subordination of Subordinated Debt Securities**

The subordinated debt securities will be unsecured and will be subordinate and junior in priority of payment to certain of our other indebtedness to the extent described in a prospectus supplement. The subordinated indenture does not limit the amount of subordinated debt securities that we may issue, nor does it limit us from issuing any other secured or unsecured debt.

## **DESCRIPTION OF UNITS**

We may offer units comprised of any of the other securities described in this prospectus in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The units may be issued under units agreements to be entered into between us and a bank or trust company, as unit agent, as detailed in the prospectus supplement relating to units being offered.

We will file as exhibits to the registration statement of which this prospectus is a part, or will incorporate by reference from reports that we file with the SEC, the form of unit agreement, if any, that describes the terms of the series of units we are offering, and any supplemental agreements, before the issuance of the related series of units. The

following summaries of material terms and provisions of the units are subject to, and qualified in their entirety by reference to, all the provisions of the unit agreement, if any, and any supplemental agreements applicable to a particular series of units. We urge you to read the applicable prospectus supplements related to the particular series of units that we may offer under this prospectus, as well as the complete unit agreement, if any, and any supplemental agreements that contain the terms of the units.



## TABLE OF CONTENTS

The prospectus supplement relating to a particular issue of units will describe the terms of those units and the price or prices at which we will offer the units. The description may include:

the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances the securities comprising the units may be held or transferred separately;

a description of the terms of any unit agreement governing the units;

a description of the provisions for the payment, settlement, transfer or exchange of the units;

a discussion of material Federal income tax considerations, if applicable; and

whether the **units will be issued in fully registered or global form.**

## **LEGAL OWNERSHIP OF SECURITIES**

We can issue securities in registered form or in the form of one or more global securities. We describe global securities in greater detail below. We refer to those persons who have securities registered in their own names on the books that we or any applicable trustee, depository or warrant agent maintain for this purpose as the **holders** of those securities. These persons are the legal holders of the securities. We refer to those persons who, indirectly through others, own beneficial interests in securities that are not registered in their own names, as **indirect holders** of those securities. As we discuss below, indirect holders are not legal holders, and investors in securities issued in book-entry form or in street name will be indirect holders.

### **Book-Entry Holders**

We may issue securities in book-entry form only, as we will specify in the applicable prospectus supplement. This means securities may be represented by one or more global securities registered in the name of a financial institution that holds them as depository on behalf of other financial institutions that participate in the depository's book-entry system. These participating institutions, which are referred to as participants, in turn, hold beneficial interests in the securities on behalf of themselves or their customers.

Only the person in whose name a security is registered is recognized as the holder of that security. Securities issued in global form will be registered in the name of the depository or its participants. Consequently, for securities issued in global form, we will recognize only the depository as the holder of the securities, and we will make all payments on the securities to the depository. The depository passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depository and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the securities.

As a result, investors in a book-entry security will not own securities directly. Instead, they will own beneficial interests in a global security, through a bank, broker or other financial institution that participates in the depository's book-entry system or holds an interest through a participant. As long as the securities are issued in global form, investors will be indirect holders, and not holders, of the securities.

### **Street Name Holders**

We may terminate a global security or issue securities in non-global form. In these cases, investors may choose to hold their securities in their own names or in street name. Securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account he or she maintains at that institution.

For securities held in street name, we will recognize only the intermediary banks, brokers and other financial institutions in whose names the securities are registered as the holders of those securities, and we will make all payments on those securities to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect holders, not holders, of those securities.

TABLE OF CONTENTS

## Legal Holders

Our obligations, as well as the obligations of any applicable trustee and of any third parties employed by us or a trustee, run only to the legal holders of the securities. We do not have obligations to investors who hold beneficial interests in global securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect holder of a security or has no choice because we are issuing the securities only in global form.

For example, once we make a payment or give a notice to the holder, we have no further responsibility for the payment or notice even if that holder is required, under agreements with depositary participants or customers or by law, to pass it along to the indirect holders but does not do so. Similarly, we may want to obtain the approval of the holders to amend an indenture, to relieve us of the consequences of a default or of our obligation to comply with a particular provision of the indenture or for other purposes. In such an event, we would seek approval only from the holders, and not the indirect holders, of the securities. Whether and how the holders contact the indirect holders is up to the holders.

## Special Considerations For Indirect Holders

If you hold securities through a bank, broker or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

how it handles securities payments and notices;

whether it imposes fees or charges;

how it would handle a request for the holders' consent, if ever required;

whether and how you can instruct it to send you securities registered in your own name so you can be a holder, if that is permitted in the future;

how it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and

if the securities are in book-entry form, how the depositary's rules and procedures will affect these matters.

## Global Securities

A global security is a security that represents one or any other number of individual securities held by a depositary.

Generally, all securities represented by the same global securities will have the same terms.

Each security issued in book-entry form will be represented by a global security that we deposit with and register in the name of a financial institution or its nominee that we select. The financial institution that we select for this purpose is called the depositary. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York, known as DTC, will be the depositary for all securities issued in book-entry form.

A global security may not be transferred to or registered in the name of anyone other than the depositary, its nominee or a successor depositary, unless special termination situations arise. We describe those situations below under Special

Situations When a Global Security Will Be Terminated. As a result of these arrangements, the depositary, or its nominee, will be the sole registered owner and holder of all securities represented by a global security, and investors will be permitted to own only beneficial interests in a global security. Beneficial interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depositary or with another institution that does. Thus, an investor whose security is represented by a global security will not be a holder

of the security, but only an indirect holder of a beneficial interest in the global security.

If the prospectus supplement for a particular security indicates that the security will be issued in global form only, then the security will be represented by a global security at all times unless and until the global security is terminated.

If termination occurs, we may issue the securities through another book-entry clearing system or decide that the securities may no longer be held through any book-entry clearing system.

TABLE OF CONTENTS

## **Special Considerations For Global Securities**

The rights of an indirect holder relating to a global security will be governed by the account rules of the investor's financial institution and of the depository, as well as general laws relating to securities transfers. We do not recognize an indirect holder as a holder of securities and instead deal only with the depository that holds the global security.

If securities are issued only in the form of a global security, an investor should be aware of the following:

an investor cannot cause the securities to be registered in his or her name, and cannot obtain non-global certificates for his or her interest in the securities, except in the special situations we describe below;

an investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe above;

an investor may not be able to sell interests in the securities to some insurance companies and to other institutions that are required by law to own their securities in non-book-entry form;

an investor may not be able to pledge his or her interest in a global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;

the depository's policies, which may change from time to time, will govern payments, transfers, exchanges and other matters relating to an investor's interest in a global security;

we and any applicable trustee have no responsibility for any aspect of the depository's actions or for its records of ownership interests in a global security, nor do we or any applicable trustee supervise the depository in any way;

the depository may, and we understand that DTC will, require that those who purchase and sell interests in a global security within its book-entry system use immediately available funds, and your broker or bank may require you to do so as well; and

financial institutions that participate in the depository's book-entry system, and through which an investor holds its interest in a global security, may also have their own policies affecting payments, notices and other matters relating to the securities.

There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the actions of any of those intermediaries.

## **Special Situations When a Global Security Will Be Terminated**

In a few special situations described below, the global security will terminate and interests in it will be exchanged for physical certificates representing those interests. After that exchange, the choice of whether to hold securities directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in securities transferred to their own name, so that they will be direct holders. We have described the rights of holders and street name investors above.

Unless we provide otherwise in the applicable prospectus supplement, the global security will terminate when the following special situations occur:

if the depository notifies us that it is unwilling, unable or no longer qualified to continue as depository for that global security and we do not appoint another institution to act as depository within 90 days;

if we notify any applicable trustee that we wish to terminate that global security; or

if an event of default has occurred with regard to securities represented by that global security and has not been cured or waived.



TABLE OF CONTENTS

The prospectus supplement may also list additional situations for terminating a global security that would apply only to the particular series of securities covered by the applicable prospectus supplement. When a global security terminates, the depositary, and not we or any applicable trustee, is responsible for deciding the names of the institutions that will be the initial direct holders.

## **PLAN OF DISTRIBUTION**

We may sell or issue the shelf securities from time to time in any one or more of the following ways:

through underwriters or dealers;  
directly to purchasers;  
through agents; or  
through a combination of these methods.

Registration of the shelf securities covered by this prospectus does not mean, however, that the securities will necessarily be offered or sold.

Shelf securities may be distributed from time to time in one or more transactions at a fixed price or prices, which may be changed; at market prices prevailing at the time of sale; at prices related to such prevailing market prices; or at negotiated prices.

For each offering of securities hereunder, we will describe the method of distribution of such securities, among other things, in the applicable prospectus supplement. The prospectus supplement will set forth the terms of the offering of the securities, including, as applicable:

the name or names of any agents or underwriters;  
the amount of securities underwritten or purchased by any underwriter;  
the initial public offering price;  
the amounts of any commissions discounts paid or allowed to any agents or underwriters;  
the proceeds we will receive;  
any other items constituting underwriters' compensation;  
any discounts, commissions or concessions allowed or paid to dealers;  
the material terms of any agreement with any underwriters or agents; and  
any securities exchanges on which the securities may be listed.

Shelf securities may be offered through underwriters. Any underwriter will be named, and any discounts allowed or other compensation payable to any underwriter will be set forth, in the applicable prospectus supplement. The securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be either offered to the public through underwriting syndicates represented by managing underwriters or by underwriters without a syndicate. Unless otherwise set forth in the applicable prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions precedent and the underwriters will be obligated to purchase all of the securities if any are purchased. We may grant the underwriters an over-allotment option under which underwriters may purchase additional securities from us.

Underwriters may sell the securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters or commissions from the purchasers for which they may act as agents. Any initial public offering price and any discounts or concessions allowed or paid to dealers may be changed from time to time.





TABLE OF CONTENTS

Shelf securities may be offered to purchasers directly or through agents designated by us from time to time. Any agent involved in the offer or sale of the securities will be named, and any commissions or other compensation payable by us to such agent will be set forth, in the applicable prospectus supplement. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a best efforts basis for the period of its appointment.

Shelf securities may be offered to purchasers through dealers as principals. The dealer may then resell the offered securities to the public at varying prices to be determined by the dealer at the time of resale. The name of the dealer and the terms of the transaction will be set forth in the applicable prospectus supplement.

Shelf securities may be offered into an existing trading market for such securities at other than a fixed price. Underwriters, dealers, and agents who participate in any such at-the-market offerings will be named in the applicable prospectus, along with the terms and conditions of any agency, marketing or similar agreement and the commissions payable or other compensation upon sales of the securities.

We may make direct sales of shelf securities through subscription rights distributed to our existing shareholders on a pro rata basis, which may or may not be transferable. In any distribution of subscription rights to our shareholders, if all of the underlying securities are not subscribed for, we may then sell the unsubscribed securities directly to third parties or may engage the services of one or more underwriters, dealers or agents, including standby underwriters, to sell the unsubscribed securities to third parties. Any underwriters, dealers or agents involved in the offer or sale of the securities will be named, and any commissions or other compensation payable by us to such underwriter, dealer or agent will be set forth, in the applicable prospectus supplement.

We may offer shelf securities directly to service providers or suppliers in payment of outstanding invoices.

Underwriters, broker-dealers and agents that participate in the distribution of the securities may be deemed to be underwriters as defined in the Securities Act of 1933, as amended (the Securities Act). Any commissions paid or any discounts or concessions allowed to any such persons, and any profits they receive on resale of the securities, may be deemed to be underwriting discounts and commissions under the Securities Act.

Agents and underwriters may be entitled to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, or to contribution with respect to payments which the agents or underwriters may be required to make in respect of their liabilities.

We may authorize underwriters, dealers or agents to solicit offers by institutional investors, such as commercial banks and investment companies, to purchase the shelf securities from us at the public offering price set forth in the applicable prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. The terms and conditions of these contracts and the commissions payable for solicitation of the contracts will be set forth in the prospectus supplement.

During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These transactions may include over allotment and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters may also impose a penalty bid, whereby selling concessions allowed to syndicate members or other broker-dealers for the offered securities sold for their account may be reclaimed by the syndicate if such offered securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the offered securities, which may be higher than the price that might otherwise prevail in the open market. If commenced, these activities may be discontinued at any time.

Any underwriters who are qualified market makers may engage in passive market making transactions in the securities in accordance with Rule 103 of Regulation M.

Agents and underwriters may be our customers, engage in transactions with us, or perform services for us in the ordinary course of business.

## TABLE OF CONTENTS

In compliance with guidelines of the Financial Industry Regulatory Authority, or FINRA, the aggregate maximum discount, commission or agency fees or other items constituting underwriting compensation to be received by any FINRA member or independent broker-dealer will not exceed 8% of any offering pursuant to this prospectus and any applicable prospectus supplement.

Unless otherwise specified in the applicable prospectus supplement, shelf securities offered by us under this prospectus will be a new issue and, other than the common stock, which is quoted on the NASDAQ national market, will have no established trading market. We may elect to list any other class or series of securities on an exchange, and in the case of the common stock, on any additional exchange, but, unless otherwise specified in the applicable prospectus supplement, we shall not be obligated to do so. Any underwriters to whom securities are sold for public offering and sale may make a market in the securities, but the underwriters will not be obligated to do so and may discontinue any market making at any time without notice. The securities may or may not be listed on a national securities exchange or a foreign securities exchange. No assurance can be given as to the liquidity of the trading market for any of the securities.

All costs, expenses and fees associated with the registration and distribution of shelf securities, including underwriting discounts and commissions, placement agent fees and similar compensation will be borne by us.

## **LEGAL MATTERS**

The validity of the securities offered will be passed on for us by our counsel, Holland & Knight, LLP, McLean, Virginia. Counsel for any underwriter or agent will be noted in the applicable prospectus.

## **EXPERTS**

The audited consolidated financial statements, and management's assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus and elsewhere in the registration statement have been so incorporated by reference in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

TABLE OF CONTENTS

**\$125,000,000**

**The KEYW Holding Corporation**  
**% Convertible Senior Notes due 2019**

PRELIMINARY PROSPECTUS SUPPLEMENT

Edgar Filing: KEYW HOLDING CORP - Form 424B5

RBC Capital Markets

BofA Merrill Lynch

SunTrust Robinson Humphrey

July , 2014

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