



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

YATRA ONLINE, INC.,

Plaintiff,

v.

EBIX, INC., EBIXCASH TRAVELS,
INC., REGIONS BANK, BMO HARRIS
BANK N.A., BBVA USA, FIFTH
THIRD BANK, NATIONAL
ASSOCIATION, KEYBANK
NATIONAL ASSOCIATION, SILICON
VALLEY BANK, CADENCE BANK,
N.A., and TRUSTMARK NATIONAL
BANK.

Defendants.

C.A. No. 2020-0444-JRS

**PUBLIC [REDACTED]
VERSION AS FILED
SEPTEMBER 30, 2020**

VERIFIED AMENDED COMPLAINT

Plaintiff Yatra Online, Inc. (“Yatra”), by and through its undersigned counsel, brings this verified amended complaint (the “Amended Complaint”) against defendants Ebix, Inc. (“Parent”) and EbixCash Travels, Inc. (“Merger Sub” and, together with Parent, “Ebix”) in connection with Ebix’s (i) serial breaches of a merger agreement dated July 16, 2019 (the “Merger Agreement”) and a related merger extension agreement (the “Extension Agreement”), (ii) violations of the implied covenant of good faith and fair dealing that inhere in the Merger Agreement and Extension Agreement, and (iii) fraud on Yatra. Yatra further brings this

Amended Complaint for tortious interference with the Merger Agreement against (a) Regions Bank, as Administrative Agent and Collateral Agent (the “Agent Defendant”) under Parent’s secured credit facility (the “Credit Facility”) and (b) Regions Bank, BMO Harris Bank N.A., BBVA USA, Fifth Third Bank, National Association, KeyBank National Association, Silicon Valley Bank, Cadence Bank, N.A., and Trustmark National Bank (collectively, the “Lender Defendants”), as signatories to the Tenth Amendment, dated as of May 7, 2020 (the “Tenth Amendment”) to Parent’s credit agreement, dated as August 5, 2014 (as amended, the “Credit Agreement”).

Except for facts specifically pertaining to Yatra and its own acts, the allegations in this Amended Complaint are based upon information and belief, which include but are not limited to: (i) Ebix’s and Ebix’s representatives’ communications with Yatra and Yatra’s representatives; (ii) Ebix’s public filings with the United States Securities and Exchange Commission (the “SEC” or the “Commission”); (iii) Yatra’s communications with the SEC regarding pertinent matters; (iv) other publicly available data; and (v) investigation by Yatra’s corporate and litigation counsel.

I. NATURE OF THE CASE

1. When initially filed, this case challenged primarily a series of material breaches by Ebix of the parties’ sabotaged Merger Agreement. In particular, the

original complaint (the “Original Complaint”) focused on: deficiencies in Ebix’s accounting practices that resulted in a long series of [REDACTED] inquiring into, *inter alia*, Ebix’s [REDACTED] practices (which only came to light as a result of Yatra’s own conversations with the SEC relating to the Commission’s refusal to clear the filings necessary to allow the merger to go forward); Ebix’s failure to respond promptly to and “clear” those [REDACTED]; Ebix’s failure to cause its Form S-4 (the “S-4”) to be declared effective so that it could issue the convertible preferred stock it committed to provide as merger consideration to Yatra; as well as Ebix’s intentioned “slow walking” its obligations under the Merger Agreement, among others.¹

2. These breaches arose, in most part, because Ebix wanted to avoid paying to Yatra stockholders the \$257 million cash put right that the parties negotiated under the legally binding Merger Agreement. As Ebix’s stock price began to suffer in November 2019, with such issues compounded by the COVID-19 pandemic, the relative value of the put right, when compared to Ebix’s market capitalization, had ballooned. Notwithstanding its legal obligations, Ebix decided that it would get out of paying the cash put right by hook or by crook.

¹ The Original Complaint also challenged breaches of the Extension Agreement, pursuant to which, as described more fully herein, the parties had agreed to extend the outside date of the Merger Agreement in consideration of certain promises by Ebix that were breached.

3. All of these allegations are contained in this Amended Complaint. But during the time between the filing of Ebix's motion to dismiss the Original Complaint and the date that this response became due, Ebix was required by law to file and did file an amazing document, which lifted the curtain on something more sinister than its contract breaches. Indeed, Ebix's filing of the Tenth Amendment as an exhibit to its Form 10-Q for the fiscal period ended June 30, 2020, on or about August 7, 2020, uncovered, for the first time, a clear view in to Ebix's outright fraud on Yatra and the tortious conduct of the Agent Defendant and the Lender Defendants, which while well aware of Ebix's obligations under the Merger Agreement knowingly contracted with Ebix to render Ebix's performance to Yatra under that agreement impossible to fulfill without immediately defaulting under the Credit Agreement.

4. What the Tenth Amendment showed was that Ebix's disengagement during the March-May, 2020 time frame, which at the time Yatra assumed related to a buyer spooked by the COVID-19 pandemic and embarrassed by the fact that the cash put right it had contracted to pay as part of the merger consideration had become a steadily larger percentage of its equity value as the trading price of its stock sunk in the market since November 2019, was actually nothing of the kind. It was instead a calculated attempt to cause Yatra to forbear exercising its rights under the Merger Agreement just long enough for Ebix to lock down its renegotiation with the Agent

Defendant and the Lender Defendants so that they did not get cold feet by Yatra bringing litigation.

5. Unbeknownst to Yatra, when Ebix offered economic terms to entice a renegotiation of the consideration payable in the Merger Agreement, it had no intent to close on those terms. Instead, it only sought to lull Yatra into not exercising its rights under the Merger Agreement for long enough so that Ebix could complete its own renegotiation with the Lender Defendants and secure a clean annual audit.

6. Specifically, during May 2020, while the Merger Agreement was still in full force and effect, Ebix offered Yatra certain valuable alternative consideration, described in greater detail below, to lure it in to engaging in a renegotiation of the Merger Agreement. Yatra, while preserving all of its rights under the original Merger Agreement (then fully in force), found the revised terms promised by Ebix sufficient to agree to engage in negotiation (rather than move to litigation) and did so in good faith.

7. But, hidden from Yatra while “renegotiations” were “occurring,” Ebix simultaneously contracted with the Agent Defendant and the Lender Defendants pursuant to the Tenth Amendment to *give away* its right to comply with the Merger Agreement, *still in full force and effect*, by *giving away* its right to issue a valuable cash put right to Yatra.

8. But it was not only that Ebix did a “bait and switch” and then contracted away its right to fulfill its obligations under the Merger Agreement. Instead, just as soon as it had achieved its amendment with the Agent Defendant and the Lender Defendants, Ebix summarily reneged on its promises to provide Yatra with the offered and valuable substitute consideration and pulled that revised consideration off the table entirely.

9. In short, the series of proposed economic considerations that Ebix offered to Yatra were just enough to cause Yatra to forbear taking steps to protect its rights under the Merger Agreement. Ebix seized on this window to secure its annual audit and close on the Tenth Amendment, and then did an “about face” and pulled back all of the key economic consideration it offered Yatra to renegotiate, *after* having contracted away to the Agent Defendant and the Lender Defendants the right to honor its original Merger Agreement.

10. What Yatra first thought was a series of contract breaches by a fickle counterparty is now revealed as a far more sinister plot—a plot to gut the Merger Agreement behind the façade of constructive engagement. In short, fraud writ large.

11. Moreover, the Lender Defendants, with knowledge that the Merger Agreement was in full force and effect and included a valuable cash put right (that the Lender Defendants just nine months earlier valued at \$260 million), knowingly negotiated the Tenth Amendment to expressly make Ebix’s compliance with its

obligation to issue the cash put right in the Merger Agreement, *i.e.*, the key consideration for the merger, impossible to provide. If Ebix were to provide the cash put right to Yatra as committed in the Merger Agreement, then Parent would immediately default under the Tenth Amendment and the Lender Defendants could accelerate Parent's debt and foreclose on *all* of Parent's assets.

12. Availing itself of its right under Rule 15aaa of this Court, Yatra reasserts its claims for breach of contract, and, based on this newly discovered evidence now asserts additional claims against Ebix for breach of the covenant of good faith and fair dealing and fraud, as well as tortious interference with contract against the Agent Defendant and the Lender Defendants.

II. JURISDICTION

13. This Court has subject matter jurisdiction over this action pursuant to 10 *Del. C.* § 341, which provides that the "Court of Chancery shall have jurisdiction to hear and determine all matters and causes in equity."

14. The Court also has subject matter jurisdiction over this action pursuant to 8 *Del. C.* § 111(a), which provides, in relevant part, that "[a]ny civil action to interpret, apply, enforce or determine the validity of the provisions of . . . [a]ny agreement, certificate of merger or consolidation, or certificate of ownership and merger governed by §§ 251-253 . . . of this title . . . may be brought in the Court of Chancery."

15. This Court has personal jurisdiction over Ebix, Inc. and EbixCash Travels, Inc. Ebix, Inc. is a Delaware corporation, and Section 9.9 of the Merger Agreement provides:

9.9. Governing Law; Venue; Waiver of Jury Trial; Specific Performance

(a) . . . this Agreement, and any dispute arising out of or relating to this Agreement, shall be deemed to be made in and in all respects shall be interpreted, construed and governed by and enforced in accordance with the Laws of the State of Delaware, without regard to the conflicts of laws rules thereof.

. . .

(d) . . . each of the parties (i) irrevocably submits itself to the personal jurisdiction of each state or federal court sitting in the State of Delaware . . . in any Proceeding arising out of or relating to this Agreement, the Merger or the other transactions contemplated hereby . . .; [and] (ii) agrees that every such Proceeding shall be brought, heard and determined exclusively in the Court of Chancery of the State of Delaware

16. This Court has personal jurisdiction over the Agent Defendant and the Lender Defendants. 10 *Del. C.* § 3104(c)(1) provides:

As to a cause of action brought by any person arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident, or a personal representative, who in person or through an agent:

(1) Transacts any business or performs any character of work or service in the State.

17. On August 5, 2014, the Agent Defendant, on behalf of the lenders under the Credit Facility (including the Lender Defendants), filed a UCC Financing Statement to perfect such lenders' liens on the collateral under the Credit Facility

with the Secretary of State of Delaware, Thereafter, on February 6, 2019, the Agent Defendant, on behalf of the lenders under the Credit Facility (including the Lender Defendants), filed a UCC Financing Statement Amendment with the Secretary of State of the State of Delaware to continue such lenders' liens on Parent's assets.

18. The act of filing the financing statement and the continuation statement in Delaware allowed the Agent Defendant and all of the Lender Defendants to perfect (and continue) a security interest in “[a]ll assets of the Debtor [*i.e.*, Parent], wheresoever located, whether now owned or existing or hereafter acquired together with all proceeds thereof.” The act of filing the financing and the continuation statement in Delaware perfected (and continued) a security interest in the assets that stand as security (collateral) for the Tenth Amendment, without which there would be no credit agreement or amendments thereto.

19. Additionally, as lenders to many Delaware entities, the Agent Defendant and the Lender Defendants regularly file UCC financing statements with the Delaware Secretary of State in the State of Delaware. Indeed, a UCC search in Delaware revealed that the Agent Defendant and the Lender Defendants are named as secured parties on over **22,000** financing statements:

Secured Party	Frequency
Regions Bank	975
BMO Harris Bank N.A.	2,094
BBVA USA (f/k/a Compass Bank)	171
Fifth Third Bank, National Association	3,890
KeyBank National Association	3,515
Silicon Valley Bank	10,856
Cadence Bank, N.A.	482
Trustmark National Bank	87
Total	22,070

20. Such regular course of dealing in the State is vital to the business of the Agent Defendant and each of the Lender Defendants in that it allows each of them to perfect the liens they regularly take on collateral of Delaware-formed debtors when they deal with such debtors in the regular course of their business.

21. This course of dealing demonstrates meaningful contacts with the State such that the exercise of jurisdiction here over the Agent Defendant and each of the Lender Defendants is appropriate.

III. PARTIES

22. Plaintiff Yatra is a Cayman Islands exempted company with operations primarily in India. It is an online travel company that addresses the needs of both leisure and business travelers. Yatra's registered office is located in Grand Cayman and its principal executive office is located in India. Yatra's common stock is listed

on NASDAQ under the symbol “YTRA,” and certain warrants to purchase Yatra common stock are listed on the OTCQX Best Market under the symbol “YTROF.”

23. Defendant Ebix, Inc. is a Delaware corporation with headquarters located in Johns Creek, Georgia. It operates as an international supplier of on-demand infrastructure exchanges to the insurance, financial, and healthcare industries. Ebix, Inc.’s common stock is listed on NASDAQ under the symbol “EBIX.”

24. Defendant EbixCash Travels, Inc. is a Cayman Islands exempted company and a direct, wholly-owned subsidiary of Ebix, Inc.

25. Defendant Regions Bank an Alabama state-chartered commercial bank. Regions Bank serves as Administrative Agent and Collateral Agent under the Credit Facility and has served in such capacities since August 5, 2014. Regions Bank is also a lender under the Credit Agreement and executed the Tenth Amendment.

26. Defendant BMO Harris Bank N.A., is a bank based in Chicago, Illinois. BMO Harris Bank N.A. is a lender under the Credit Agreement and executed the Tenth Amendment.

27. Defendant BBVA USA is an Alabama banking corporation headquartered in Birmingham, Alabama. BBVA USA is a lender under the Credit Agreement and executed the Tenth Amendment.

28. Defendant Fifth Third Bank, National Association is a national bank based in Cincinnati, Ohio. Fifth Third Bank, National Association is a lender under the Credit Agreement and executed the Tenth Amendment.

29. Defendant KeyBank National Association is a regional bank headquartered in Cleveland, Ohio. KeyBank National Association is a lender under the Credit Agreement and executed the Tenth Amendment.

30. Defendant Silicon Valley Bank is a California state-chartered bank. Silicon Valley Bank is a lender under the Credit Agreement and executed the Tenth Amendment.

31. Defendant Cadence Bank, N.A. is a national banking association. Cadence Bank, N.A. is a lender under the Credit Agreement and executed the Tenth Amendment.

32. Defendant Trustmark National Bank is a Mississippi state-chartered bank headquartered in Jackson, Mississippi. Trustmark National Bank is a lender under the Credit Agreement and executed the Tenth Amendment.

IV. SUBSTANTIVE ALLEGATIONS

A. Yatra And Ebix Negotiate The Merger And Enter Into The Merger Agreement

33. On February 13, 2019, during an informal in-person meeting, Robin Raina, the chief executive officer (“CEO”) of Ebix, indicated to Dhruv Shringi, the CEO of Yatra, that Ebix was interested in exploring a strategic transaction with Yatra. Shringi shared this inbound interest from Ebix with Yatra’s senior management and certain members of Yatra’s board of directors (the “Board”).

34. Over the next two weeks, Shringi and Raina had a number of conversations discussing a potential transaction structure, the details of which Shringi relayed to members of Yatra senior management and the Board. Then, on February 24, 2019, Ebix sent to the Board a written proposal to acquire 100% of Yatra (the “Initial Proposal”). The Initial Proposal contemplated that the merger consideration would be payable either in cash or freely-tradeable Ebix stock (with a price floor), and that all outstanding Yatra warrants would be surrendered or repurchased and retired by Yatra prior to closing. In the scenario where the merger consideration was stock, the Initial Proposal also provided for a put right that would allow former Yatra stockholders to sell back to Ebix such stock 25 months after closing at 90% of the price at which it was issued.

35. The Board proceeded to discuss the strategic rationale of a potential transaction and, to aid its evaluation, it engaged legal counsel, Goodwin Procter LLP, and a financial advisor, Citigroup Global Markets Inc. (“Citi”).

36. On March 11, 2019, without Yatra’s prior permission, Ebix publicly disclosed the terms of the Initial Proposal in a press release and a Form 8-K filed with the SEC. Later that day, Yatra confirmed that it was exploring a transaction with Ebix, and the parties subsequently entered into a confidentiality agreement to protect against unauthorized disclosures such as the one made by Ebix in the March 11, 2019 Form 8-K.

37. From March 13, 2019 through April 10, 2019, Yatra continued to negotiate with Ebix. It also had preliminary discussions with two other potential strategic purchasers identified by Citi.

38. Yatra thereafter determined to focus its attention on a potential transaction with Ebix. Over the next several months they heavily negotiated the terms of the Merger Agreement and conducted mutual due diligence investigations aided by legal and financial advisors. A key term of the Merger Agreement, as described in more detail below, was a cash put right for Yatra stockholders valued at \$257 million.

39. Ultimately, on July 16, 2019 (the “Signing Date”), Yatra and Ebix finalized and executed the Merger Agreement, and they jointly announced the deal (the “Merger”) the next day.

B. Key Obligations of the Parties Under The Merger Agreement

40. The Merger Agreement provided for a stock deal where, upon the closing (the “Closing”), each Yatra share would be converted into the right to receive Ebix convertible preferred stock (the “Convertible Preferred Stock”) in accordance with a fixed exchange ratio. A put right (the “Put Right”) would accompany such Merger consideration, allowing former Yatra stockholders who had not previously exercised the conversion feature of the Convertible Preferred Stock to have such stock redeemed for \$5.31 per share in cash during the 25th month after the closing of the Merger.

41. The Put Right was a heavily negotiated, material component of the Merger Agreement, and it implied a Yatra equity value of \$257 million. In other words, as of the Signing Date, the value of the Put Right equaled approximately 17.50% of Ebix’s market capitalization. Such percentage ballooned following the Signing Date. On November 14, 2019, as Ebix’s stock price fell in the wake of its earnings announcement, the value of the Put Right equaled approximately 25.67% of Ebix’s market capitalization. As of May 1, 2020, the last trading day before Ebix

proposed the “Heads of Terms” (described below), the Put Right equaled approximately 44.17% of Ebix’s market capitalization.

42. The Merger Agreement also provided that Ebix would assume certain outstanding Yatra warrants, which would be convertible into the same Convertible Preferred Stock in accordance with a specified calculation and accompanied by the same Put Right.

43. In addition to the foregoing economic terms, the Merger Agreement included a number of representations and warranties by Yatra and Ebix, as well as post-signing, pre-Closing covenants, which were tied to closing conditions for the Merger. A description of such Merger Agreement provisions relevant to this action follows.

44. *First*, Ebix represented and warranted that all prior **and** future public disclosures complied or would comply with all SEC rules and regulations and federal securities laws (collectively, the “Accuracy Provisions”):

- As of its filing date (and as of the date of any amendment), each Parent SEC Document ***filed prior to the date hereof complied***, and each Parent SEC Document filed subsequent to the date hereof ***will comply in all material respects with the applicable requirements of Nasdaq, the Securities Act, the Exchange Act and the Sarbanes-Oxley Act***, as the case may be (Merger Agreement § 4.8(b) (emphasis added)); and
- As of its filing date (or, if amended or superseded by a filing prior to the date hereof, on the date of such filing), each Parent SEC Document ***filed prior to the date hereof did not***, and each Parent SEC Document filed subsequent to the date hereof ***will not, contain any untrue statement of a material fact or omit to state any material fact*** required

to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. (*Id.* § 4.8(c) (emphasis added).)

45. The Accuracy Provisions were of the utmost importance to Yatra, since its stockholders would, upon the Closing, become stockholders of Ebix, and it was critical that Ebix be in compliance with the securities laws of the United States. Put simply, Yatra negotiated for its stockholders to take stock in a public company traded on NASDAQ, and it wanted to be sure that Ebix was and continued to be a listed and traded company, operating in compliance with applicable law.

46. *Second*, and relatedly, Ebix represented that: (a) all prior *and* future financial statements complied or would comply with applicable accounting requirements; and (b) it had not received regulatory inquiries into its accounting practices or policies between December 31, 2018 and the date of the Merger Agreement (collectively, the “Accounting Provisions”):

- The consolidated financial statements (including all related notes and schedules thereto) of Parent included in or incorporated by reference into the Parent SEC Documents (the “Parent SEC Financial Statements”) *comply in all material respects as to form with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto*. The Parent SEC Financial Statements fairly present, or, *in the case of Parent SEC Documents filed after the date of this Agreement, will fairly present, in all material respects the consolidated financial position of Parent and its consolidated Subsidiaries . . . all in conformity with GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto) (id. § 4.10(a) (emphasis added))*; and

- From December 31, 2018 to the date of this Agreement, Parent has not received written notice from the SEC or any other Governmental Entity indicating that any of its accounting policies or practices are the subject of any review, inquiry, investigation or challenge by the SEC or any other Governmental Entity. (*Id.* § 4.10(b).)

47. The Accounting Provisions, like the Accuracy Provisions, were of the utmost importance to Yatra, since its stockholders would, upon the Closing, become stockholders of Ebix, and it was critical that Yatra stockholders accurately and precisely understood the financials of the company in which they would receive stock as Merger consideration.

48. *Third*, Ebix covenanted to file, no later than 45 days after the Signing Date, the S-4 with the SEC, and thereafter use “reasonable best efforts” to have the SEC declare the S-4 effective “as promptly as practicable after such filing” (the “S-4 Provisions”):

- As promptly as practicable, and in no event later than 45 days after the execution and delivery of this Agreement, . . . Parent shall prepare (with [Yatra’s] reasonable cooperation) and file with the SEC a registration statement on Form S-4 . . . in connection with the registration under the Securities Act of the shares of Parent Preferred Stock to be issued in the Merger. Parent shall use its reasonable best efforts to have the Form S-4 declared effective by the SEC under the Securities Act as promptly as practicable after such filing with the SEC. (*Id.* § 6.1(a).)

49. An effective S-4 was a closing condition to the Merger and a prerequisite for Yatra to hold its stockholder meeting for approval of the Merger. In order for Ebix to be able issue to the Convertible Preferred Stock to Yatra as Merger

consideration, the SEC had to declare effective the S-4; thus, Ebix would only have the currency to pay for Yatra under the Merger Agreement if it received this SEC approval.

50. *Fourth*, Yatra and Ebix covenanted to use “reasonable best efforts” to ensure that all closing conditions would be satisfied, including Ebix having the SEC declare as effective the S-4 (the “Best Efforts Provision”):

- Parent, Merger Sub and [Yatra] shall . . . *use their reasonable best efforts* to take, or cause to be taken, *as promptly as practicable*, all actions necessary, proper or advisable *to consummate the Merger as promptly as practicable*, including to *use reasonable best efforts to, as promptly as practicable . . . cause all of the conditions to Closing be satisfied*. (*Id.* § 6.5(a) (emphasis added).)

51. As detailed below, Ebix breached the Accuracy Provisions, the Accounting Provisions, the S-4 Provisions, and the Best Efforts Provision. It appears that Ebix’s [REDACTED]

[REDACTED]

[REDACTED].

52. In any event, Ebix repeatedly breached the Accuracy Provisions and the Accounting Provisions between the Signing Date and the date of the termination of the Merger Agreement. Moreover, in bad faith, Ebix breached the S-4 Provisions, the Best Efforts Provision, and the implied covenant of good faith and fair dealing in a transparent attempt to avoid the Closing.

53. Most egregiously, Ebix bound itself via the Tenth Amendment such that it could not issue the Put Right as Merger consideration, in clear violation of the Best Efforts Provision and/or the covenant of good faith and fair dealing.

C. Ebix Drags Its Feet Preparing And Filing The S-4 In Breach Of The Merger Agreement

54. The Merger Agreement initially provided an outside date of April 12, 2020 (the “Outside Date”) for the Closing. Either party could terminate the Merger Agreement in the event that the Merger did not close by the Outside Date, *unless* the terminating party had breached or violated any of its obligations under the Merger Agreement and “such breach has been the principal cause of or directly resulted in (A) the failure to satisfy the conditions to the obligations of the terminating party to consummate the Merger set forth in Article VII prior to the Outside Date or (B) the failure of the Closing to occur by the Outside Date.” (*Id.* § 8.1(b)(i) (the “Outside Date Termination Right”).)

55. Despite the Outside Date, the parties believed that the Merger would close well in advance of April 2020. Indeed, on an earnings call, Raina proclaimed that the Merger should close by the end of the fourth quarter of 2019. Yatra diligently and persistently attempted to work with Ebix to close the Merger as expeditiously as possible. Ebix, however, has inexcusably and repeatedly breached the Merger Agreement.

i. The Closing Of The Merger Depends On An Effective S-4

56. As described above, Ebix filing an S-4, and the SEC thereafter declaring it to be effective, was essential to the Closing, since the Merger consideration would consist of newly-issued Convertible Preferred Stock. Ebix covenanted, pursuant to the S-4 Provisions, to file the S-4 with the SEC no later than 45 days after execution of the Merger Agreement (*i.e.*, August 30, 2019), and thereafter to “use its reasonable best efforts” to have the SEC declare the S-4 effective “as promptly as practicable after such filing.” (*Id.* § 6.1(a).) Ebix breached these obligations, along with the Best Efforts Provision, by dragging its feet with the preparation and filing of the S-4, despite Yatra bending over backwards in attempts to assist Ebix in meeting its contractual obligations.

57. A key consideration for the preparation of the S-4 was whether Ebix would have to include pro forma financials for the post-Merger company. The results of a “significance test” analysis would determine whether pro forma financials would need to be included.

58. Ebix prepares its financials in accordance with U.S. GAAP (“GAAP”). However, as a company with primarily Indian operations, Yatra had historically prepared its financials in accordance with International Financial Reporting Standards (“IFRS”), rather than GAAP. Ebix had been aware of this since the beginning of its negotiations with Yatra in March 2019.

59. Converting its financials from IFRS to GAAP would be a time-intensive process, so Yatra tried to get ahead of any issues to streamline the consolidation process, most importantly by pushing Ebix to make a determination whether pro forma financials would be needed in the first place. As described below, Ebix unreasonably delayed in conducting its significance test analysis, which indicated that pro forma financials would be needed. This stalling and delay became a hallmark of problems to come.

ii. Ebix Ignores Yatra's Warnings That The S-4 Requires Pro Forma Financial Statements

60. In the days immediately following the signing of the Merger Agreement, Yatra began to press Ebix on whether pro forma financials would be needed for the S-4. Indeed, on July 29, 2019, Yatra's counsel requested a call with Ebix's auditors to discuss the issue, including the specific Yatra financial information that Ebix would need if it were to prepare combined financials.

61. Prior to the Signing Date, Ebix had replaced their global auditor, Cherry Bekaert (an internationally accredited top-50 firm), with T R Chadha, an Indian firm that had never audited a US-listed firm before.

62. On July 31, 2019, Yatra filed its annual report on a Form 20-F with the SEC. Yatra's counsel provided the Form 20-F to Ebix's counsel and requested to review Ebix's significance test analysis. On August 1, 2019, Ebix's counsel advised

that they were working with Ebix on “running the significance test” and that the transaction might not require pro forma financials.

63. Yatra stood ready to prepare GAAP financials post haste, but it was awaiting Ebix’s instructions as to the need for such financials. As it waited, nevertheless, Yatra continued to push Ebix to make a determination whether pro forma financials would be required.

64. Following up on previous requests, Yatra’s counsel on August 5, 2019 asked Ebix’s counsel to set up a call between the parties’ auditors. Ebix’s counsel responded that Ebix had been preoccupied with their Form 10-Q for the period ended June 30, 2019, and that August 6, 2019, would be the first time that Ebix would turn its attention to the significance test issue.

65. On August 6, 2019, in response to Yatra’s counsel’s persistent inquiries, Ebix’s counsel reported that Ebix and its auditors were confirming numbers on the significance test, but that they did not believe they would need to “convert Yatra financials to GAAP and file pro formas” based on their preliminary analysis.

66. On August 9, 2019, Ebix’s counsel distributed an initial draft of the S-4 to Yatra’s counsel. The initial draft of the S-4 did not include any pro forma financial information.

67. On August 12, 2019, after conferring with Yatra's finance team, Yatra's counsel emailed Ebix's counsel and advised that Yatra's accounting treatment of its warrants under GAAP likely would require Ebix to include pro forma financial information in the S-4. The next day, Yatra, Ebix, and their auditors had a call to discuss differences between their respective significance test analyses, and Ebix requested a summary of other GAAP adjustments by Yatra in its financial statements.

68. On August 15, 2019, Yatra's counsel sent comments to the draft S-4 that Ebix's counsel had circulated on August 9, 2019. At this point, the S-4 and a Form F-4 (the "F-4") (which Yatra had to prepare due to the Merger's treatment of Yatra's warrants) were in near-final form for filing with the SEC, with the exception of the financial statements.

69. On August 23, 2019, Yatra's counsel sent Ebix's counsel its accounting analysis of the Yatra warrants. On August 26, 2019, Yatra CEO Shringi personally sent an email to Ebix and its counsel to request an update and to schedule a call to discuss next steps.

70. As of August 30, 2019, Ebix had violated the S-4 Provisions' requirement that it file the S-4 within 45 days of the Signing Date. At this time, not only had Ebix not filed the S-4, but it also had not even responded whether pro forma

financials were needed (despite Yatra’s persistent prodding). Yatra did not provide a waiver for this breach.

71. Finally, on September 4, 2019, Ebix confirmed Yatra’s prior conclusion that pro forma financials *would* be needed for the S-4 and requested Yatra’s GAAP financials from the prior two years.

72. On that same day Yatra advised that it would take a few weeks to prepare the necessary financials, as the timing—created by Ebix’s delay in determining whether the financials were necessary—coincided with Yatra’s “simultaneously work[] on Q1 IFRS results as well as the audited financial statements for all the Indian entities under Indian GAAP so that their [annual general meeting] can be held by” a September 30, 2019 deadline.

73. On that same day, Yatra informed Ebix that it needed another two to four weeks to prepare the necessary GAAP financials, as Yatra’s independent auditors across several countries needed to review and approve the statements.

iii. Ebix [REDACTED] And Thereafter Procrastinates Compiling Combined Financial Statements And Filing The S-4

74. As described in further detail below, on September 12, 2019, [REDACTED]

[REDACTED]

[REDACTED]

75. Ebix did not alert Yatra to [REDACTED]. Moreover, once it received Yatra's GAAP financials, Ebix continued its pattern of delay by not promptly compiling pro forma financials for the S-4.

76. On October 17, 2019, Yatra provided Ebix with the requested GAAP financials. By this date, Ebix should have been able to quickly compile pro forma financials, since the financials now were on an apples-to-apples basis. It could then readily finalize and file the S-4.

77. On November 1, 2019, *two weeks after Yatra had provided Ebix with its GAAP financials*, Ebix's counsel informed Yatra's counsel that Ebix had not *even begun* working on the financials for the S-4 and that Ebix would "work[] on the pro forma financials once they [got] the Ebix Q3 Form 10-Q filed on November 12." November 12, 2019 was *119 days after the Signing Date*.

78. On November 11, 2019, Yatra's counsel requested that Ebix's counsel provide Yatra with the full version of the S-4 with the pro forma financials and a proposed timeline for filing. The next day, November 12, 2019, Ebix's counsel told Yatra's counsel that Ebix expected "to have the full S-4 with pro formas to [Yatra] by November 27, 2019." Ebix's counsel added "[h]opefully we can file the S-4 soon thereafter, but at any rate before the end of the year."

79. Ebix's stock price fell drastically in November, from a closing high of \$43.05 on November 5, 2019 to a closing low of \$31.06 on November 22, 2019.

This price drop amounted to a 27.85% decline. As the stock price fell, the fixed amount of the Put Right became a progressively larger amount of Ebix's equity value. On information and belief, it was during this period that Ebix first began to reconsider its transaction with Yatra.

80. On December 2, 2019, still having not received the full S-4 with the pro forma financials, Yatra's counsel again followed up with Ebix's counsel for an update. That day, Ebix's counsel responded that the pro forma financials were "undergoing some adjustments and further review" and were expected to be delivered "by no later than this Friday," *i.e.*, December 6, 2019. Ebix gave no mention of the pending [REDACTED].

81. On December 12, 2019—*nearly five months after execution of the Merger Agreement and two months after Yatra had supplied its GAAP financials*—Ebix's counsel sent to Yatra's counsel a revised *draft* of the S-4 with pro forma financials included. Between December 18, 2019 and January 17, 2020, Ebix and Yatra exchanged further comments on the S-4, and, on January 17, 2020, the S-4 and F-4 were filed with the SEC. In other words, the filing occurred *185 days* after the signing of the Merger Agreement.

82. In sum, Ebix's unjustified delays over this six-month period in conducting the significance test analysis and preparing and filing the S-4 with pro forma financials breached both the S-4 Provisions and the Best Effort Provision.

Ebix knew how crucial an effective S-4 would be to the Closing, yet it flaunted the 45-day deadline to file the S-4 and was inexcusably dilatory in preparing its significance test analysis.

83. Then, following Ebix's belated conclusion that it needed pro forma financials (something that Yatra had advised over three weeks prior), it took Ebix nearly two months to prepare the combined financials for the S-4 [REDACTED]

[REDACTED]. Moreover, Ebix's delays coincided with a significant drop in its stock price.

84. The SEC never declared effective either the S-4 or the F-4.

D. Ebix Hides Its Accounting Problems From Yatra In Breach Of The Merger Agreement

85. Unbeknownst to Yatra, as Ebix was inexcusably dragging its feet on the significance test analysis and preparation of the S-4, Ebix received a series of comment letters from the SEC starting in September 2019 regarding its periodic reports that questioned Ebix's accounting policies and procedures (collectively, the "Comment Letters").

86. Ebix hid the Comment Letters and its accounting issues from Yatra for months, in blatant violations of the Accuracy Provisions and the Accounting Provisions. Indeed, Yatra only discovered the problem through its direct conversations with the SEC.

87. Further, in breach of the S-4 Provisions and the Best Efforts Provision, rather than expeditiously working [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

88. This is not the first time that Ebix's accounting and disclosure practices have negatively impacted a transaction. In June 2013, an affiliate of Goldman, Sachs & Co. terminated its agreement to acquire Ebix for \$20 per share in cash (a deal valued at \$820 million), after the United States Attorney for the Northern District of Georgia initiated a federal investigation into Ebix's accounting and disclosure practices that were also the subject of a prior SEC investigation and securities class action lawsuits filed against Ebix.

i. The SEC Has Long-Standing Concerns With Ebix's Financial Statements

89. Pursuant to the Accounting Provisions, Ebix represented and warranted that, from December 31, 2018 to July 16, 2019, it had “not received written notice from the SEC or any other Governmental Entity indicating that any of its accounting policies or practices are the subject of any review, inquiry, investigation or challenge by the SEC or any other Governmental Entity.” (Merger Agreement § 4.10(b).) Ebix’s counsel independently confirmed this representation.

90. Nevertheless, Yatra is aware that, between September 12, 2019 and the date of Yatra’s termination of the Merger Agreement effective June 5, 2020, Ebix

[REDACTED]

Over this time period, *i.e.*, less than seven months, Ebix had *three* different chief financial officers (“CFOs”). All three CFOs still remain on Ebix’s payroll in some capacity.

91. Market practice is to work quickly and collaboratively with the SEC to resolve any comments on accounting policies and practices. Yet, in the *nine* months of exchanging letters with the SEC leading up to Yatra’s termination of the Merger Agreement, Ebix inexcusably failed to resolve all of the SEC’s comments, which

resulted in the SEC refusing to deem effective the S-4 and the Merger unable to close.

92.

[REDACTED]

93.

[REDACTED]

94.

[REDACTED]

95.

[REDACTED]

[REDACTED]

[REDACTED].

96. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

ii. Yatra Learns About Ebix's SEC Accounting Issues

97. The next day, on January 17, 2020, after Ebix's repeated inexcusable delays, the parties finally filed the S-4 and F-4 with the SEC and Yatra's counsel asked Ebix's counsel to schedule a discussion to coordinate the review process with the SEC.

98. On January 24, 2020, *the SEC informed Yatra's counsel* that it did not anticipate performing a substantive review of the F-4, but the F-4 *would remain open* until and unless Ebix cleared the SEC's outstanding comments regarding its Form 10-K for the fiscal period ended December 31, 2018. Until this point in time, Yatra had been unaware of the SEC's issues with Ebix's accounting policies and procedures, and it also had been unaware of Ebix receiving any Comment Letters.

99. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

100. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

101. Given the general market practice of quickly clearing Comment Letters, Yatra believed that the Merger would close presently, and it was pleased that the SEC did not intend to perform a substantive review of the S-4 or the F-4. This belief was buttressed by Ebix's representation that the SEC's comments focused on disclosure, as opposed to substantive accounting, so that no restatement of financials would be needed, and any remedying disclosures could be quickly implemented. Thus, during this time, Yatra's counsel worked expeditiously to finalize the F-4 and Yatra's portion of the S-4.

102. On January 28, 2020, Ebix's counsel informed Yatra's counsel that

[REDACTED]

[REDACTED]

[REDACTED]

103. [REDACTED]

[REDACTED]

104. That day, Ebix informed Yatra that [REDACTED]

[REDACTED]

105. On February 6, 2020, Yatra's counsel requested [REDACTED]

[REDACTED]

106. On February 7, 2020, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

iii. Ebix Conceals The SEC's Comment Letters From the Market

107. Not only did Ebix's accounting misconduct lead to breaches of the Merger Agreement, but it also resulted in Ebix misleading the market and potentially violating federal securities laws. On March 2, 2020, Ebix filed its Form 10-K for the fiscal year ended December 30, 2019. As part of that filing, in response to the required section "1B. Unresolved Staff Comments," Ebix disclosed "None." This disclosure was false and breached the Accuracy Provisions of the Merger Agreement. At the time, Ebix had not received any confirmation from the SEC that it had cleared the comments in the outstanding Comment Letters. To Yatra's knowledge, Ebix had not received any confirmation from the SEC that it had cleared all such comments prior to the termination of the Merger Agreement effective June 5, 2020.

108. C(3) of the General Instructions for Form 10-K provides: "Attention is directed to Rule 12b-20, which states: 'In addition to the information expressly

required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.” In light of the circumstances, it was misleading for Ebix to say that it had no “Unresolved Staff Comment.”

109. [REDACTED] Yatra’s counsel emailed Ebix’s counsel on March 4, 2020, asking for confirmation that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

110. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

111. On March 13, 2020, Ebix’s counsel informed Yatra’s counsel that [REDACTED]

[REDACTED]

[REDACTED]

112. On March 19, 2020,

[REDACTED]

113. On March 23, 2020, due in part to the COVID-19 pandemic, the S&P 500 Index plummeted to 2,237.40, a nearly 40% decline from 3,386.15 on February 19, 2020. As of March 23, 2020, the Put Right equaled approximately 60.67% of Ebix's market capitalization, up from 17.50% as of the Signing Date.

iv.

[REDACTED]

114. On March 27, 2020, fed up with Ebix's delay and subterfuge, Yatra formally demanded from Ebix, pursuant to its information rights under Section 6.4 of the Merger Agreement, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

115. On March 30, 2020, Ebix's counsel finally provided Yatra's counsel with [REDACTED]

[REDACTED]

116. Yatra's counsel asked [REDACTED] and demanded [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

117. On April 16, 2020, Ebix sent [REDACTED]

118. [REDACTED]

[REDACTED]

[REDACTED] Ebix’s prior two CFOs—Robert Kerris and Sean T. Donaghy—have remained on Ebix’s payroll.

119. Hamil joined Ebix on April 13, 2020, from Regions Financial Corporation, the parent of Regions Bank, *i.e.*, the Agent Defendant and one of the Lender Defendants, where he had worked as the Ebix management team’s lead banker over the prior six-plus years. Indeed, on behalf of Regions Bank, Hamil signed (a) the Credit Agreement, dated as of August 5, 2014, (b) the First Amendment to the Credit Agreement, dated as of February 3, 2015, and (c) the Seventh Amendment to the Credit Agreement, dated as of April 9, 2018.

120. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

121. [REDACTED]

[REDACTED] This extension request violated Ebix’s covenants under the S-4

Provisions and the Best Efforts Provision to use its “reasonable best efforts” to have the SEC declare effective the S-4 “as promptly as practicable.” Ebix agreed to provide its response to Yatra, yet it did not do so.

122. In sum, Ebix’s pretextual and dilatory conduct [REDACTED] [REDACTED] violated Ebix’s covenants under the S-4 Provisions and the Best Efforts Provision to use its “reasonable best efforts” to have the SEC declare effective the S-4 “as promptly as practicable.” [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

123. Such failure to promptly [REDACTED] left Ebix in violation of the S-4 Provisions and the Best Efforts Provision, and is especially material because there could be no Merger currency without resolution of the [REDACTED]

124. Moreover, especially troublesome given the Merger was a stock-for-stock deal, Ebix breached the Accuracy Provisions and Accounting Provisions. [REDACTED] [REDACTED]

125.

[REDACTED]

126. Due to Ebix's multiple breaches, the SEC did not declare effective the S-4 and the Merger was unable to close. Ebix parlayed these breaches to renege on the Merger Agreement and avoid the Closing.

E. Ebix Conducts A Pretextual Renegotiation To Lull Yatra Into Not Protecting Its Rights

127. In late March 2020, with the April 12, 2020 Outside Date looming—and after the COVID-19 pandemic hit, causing unprecedented disruption across global markets—Ebix decided to engage in further delay tactics and proposed to renegotiate the binding terms of the Merger Agreement that the parties carefully and extensively negotiated.

128. By this time, Ebix had decided that it did not want to issue the Put Right as part of the Merger, since its value had ballooned as a percentage of Ebix's market capitalization. By hook or by crook, Ebix was going to try to avoid the terms of the legally binding Merger Agreement.

129. Yatra wanted to close the Merger, and it had no desire to renegotiate the deal embodied by the Merger Agreement. Nevertheless, Yatra realized that, after the passage of eight months since the Signing Date and Ebix's repeated breaches of the Merger Agreement, it faced a choice: litigate to protect its rights (leaving its business in limbo) or engage in a renegotiation to determine in good faith whether an acceptable alternative could be negotiated to the existing Merger Agreement.

130. While reserving all of its rights under the Merger Agreement, which remained in full force and effect and continued to bind the parties, Yatra proceeded, reluctantly, to see if an acceptable deal could be struck rather than move immediately to litigation.

131. Ebix, however, never intended to negotiate a revised deal in good faith. Instead, it just wanted to obtain a clean annual audit, extend the timeline under the Merger Agreement to allow it to finalize the Tenth Amendment, and announce its first quarter financial results without the overhang of litigation or its accounting misconduct coming to light. To buy this time, Ebix sought repeated extensions to the Outside Date and then proposed a number of material revised deal terms that it had no intention of honoring.

132. Such misconduct is consistent with Ebix's tumultuous M&A history. For instance, in May 2017, Ebix acquired a controlling stake in ItzCash, a payments service firm, for approximately \$120 million. Ebix CEO Raina explicitly considered the competence and experience of ItzCash's management team to be a key asset of the acquisition. Within approximately two months of the deal, however, Naveen Surya, the head of ItzCash, resigned. Surya stated that his decision was not an abrupt one, and that "[t]here was something already going at the back of my mind. I was just waiting for the right time and right fashion for it to happen." When pressed on the reasons for his departure, Surya stated "I would not like to comment on this. It is better I do not say anything." Surya later stated about Ebix, "For a Nasdaq-listed company, such dominant centralised authority with the CEO is very rare. All this machismo and mystery won't go far."

i. Ebix Tries To Renegotiate The Merger Agreement To Avoid The Put Right

133. On Saturday, April 4, 2020, members of the Yatra Board had a conversation with Raina, in which Raina said that the deal reflected in the Merger Agreement, including the Put Right, could not happen. The Merger Agreement was still in full force and effect and the Put Right was a hugely material economically for Yatra, implying a \$257 million valuation of Yatra's equity. As of the last prior trading date, April 3, 2020, the Put Right equaled approximately 68.39% of Ebix's market capitalization.

134. Around this time, and entirely unbeknownst to Yatra, the Agent Defendant and the Lender Defendants were negotiating with Ebix the Tenth Amendment whereby Ebix sought, among other things, increased liquidity and relief of debt covenants in the face of the COVID-19 pandemic.

135. As part of these negotiations, Ebix, the Agent Defendant, and the Lender Defendants also agreed to prohibit Ebix from issuing the Put Right despite knowing the Merger Agreement was in full force and effect. Indeed, in the Ninth Amendment to the Credit Agreement, dated as of September 27, 2019 (the "Ninth Amendment"), Ebix, the Agent Defendant, and the Lender Defendants explicitly provided for the Put Right, demonstrating they understood the importance of that provision in the Merger Agreement.

136. Raina indicated that the Ebix board would look at any Yatra deal afresh, notwithstanding that Ebix was already bound by the Merger Agreement. Raina said

that he was trying to assess if there was an alternative deal that he could propose and would revert within 48 hours with a proposed plan.

137. Raina, however, did not come back with a proposed plan for potential renegotiations or any revised proposed terms within 48 hours, as promised.

138. On April 8, 2020, Yatra's counsel sent Ebix a notice (the "Notice") under the Merger Agreement informing it that: (a) Ebix was in breach of the Merger Agreement based upon its repeated and inexcusable delays in the preparation and filing of the S-4 and [REDACTED]; and (b) due to Ebix's breaches, the Outside Date Termination Right was unavailable to Ebix.

139. The Notice also acknowledged that Raina intended to propose revised Merger terms and stated: "While the Merger Agreement that the parties previously negotiated and executed *is binding and enforceable as is*, in order for Yatra and its Board of Directors to carefully assess any such proposal by Ebix, and for the benefit of both parties to work together to consummate the Merger, Yatra is agreeable to extending the Outside Date for a period of two weeks, until April 26, 2020." (Emphasis added.) The Notice made clear, however, that this was "on the condition that such extension *does not constitute a waiver of or otherwise impair Yatra's rights to enforce the Merger Agreement.*" (Emphasis added.) The Notice gave

Ebix a deadline of 5:00 p.m. EST on April 9, 2020 to inform Yatra if it agreed to extend the Outside Date on the stated condition.

140. Ebix did not respond to the Notice by the deadline set forth therein. On April 12, 2020, however, the parties ultimately agreed to extend the Outside Date until April 27, 2020.

ii. The Extensions Are Mere Pretexts For Ebix

141. From April to early May, Ebix was confronted with two significant corporate events: (a) negotiation of the Tenth Amendment necessitated by the impact that the COVID-19 pandemic was having on its business operations and (b) the announcement of its first quarter financial results. Ebix was deeply concerned about the repercussions of a failed Merger and its accompanying litigation, as well as Ebix's concealed accounting issues coming to light, on negotiations with its lenders, its auditors' annual review, and its stock price.

142. Accordingly, Ebix pretextually agreed to the first extension of the Outside Date, as well as two more—until April 30, 2020 and May 4, 2020—to give it breathing room to finalize the Tenth Amendment and announce financial results. Ebix, however, never intended to engage with Yatra in good faith during these extension periods.

iii. Ebix Dangles Revised Terms In Front Of Yatra

143. On May 3, 2020, Ebix provided a term sheet (the “Head of Terms”) for a renegotiated deal that it had repeatedly promised. The Heads of Terms laid out a transaction that was less desirable to Yatra from a financial point of view, but which was sufficiently attractive that it had the actual effect of causing Yatra not to immediately sue for specific performance, terminate the deal, and/or seek other relief. In other words, Ebix offered enough to keep Yatra at the (re)negotiation “table.”

144. The Heads of Terms included, among other things, provisions pursuant to which:

- Ebix would grant Yatra a stock dividend in exchange for the elimination of the Put Right;
- convertible preferred stock would be issued that could be converted into common stock in certain specified circumstances;
- Yatra could raise \$10 million in incremental capital, subject to Ebix’s review and approval; and
- the expense reimbursement for Ebix would be reduced should Yatra stockholders reject the transaction.

145. Although the Heads of Terms contemplated a stock dividend to Yatra, it soon became clear the offer would require Ebix to issue more than 20% of its stock, thus necessitating an Ebix shareholder vote under NASDAQ rules.

146. In response, on or about May 3 or May 4, 2020, Shringi and Raina had telephonic discussions in which Raina agreed to modify and enhance certain provisions of the Heads of Terms, including: (a) a reduction in the total number of shares issued in the stock dividend to be offset with equivalent economic consideration in a different form to avoid a vote of Ebix stockholder while still providing Yatra with valuable economic consideration for the demise of the Put Right; (b) Ebix would assume the risk associated with the [REDACTED] [REDACTED] by agreeing to pay Yatra a \$10 million break-up fee if Ebix could not [REDACTED] [REDACTED] and (c) Ebix would provide a loan in the amount of \$10 million to Yatra on commercially reasonable terms.

147. Shringi and Raina agreed that they would not trade any further term sheets, and that Ebix would send over definitive documentation for a revised deal that mirrored the terms set forth in the Heads of Terms, as modified by this subsequent discussion.

148. Yatra was reluctantly open to negotiating a revised deal based on the Heads of Terms, as modified by the conversation between Shringi and Raina, so long as Yatra could get comfortable that such transaction would be likely to close (*i.e.*, that Ebix would be able to clear the [REDACTED]) and that it could receive a new fairness opinion from its financial advisor. To that end, Yatra made clear to

Ebix that it would require full and transparent diligence into Ebix's SEC and accounting issues. The parties did not formally execute the Heads of Terms, however, and the Merger Agreement was still in full force and effect and bound the parties thereto.

149. Ebix's proposed Heads of Terms had precisely Ebix's intended effect. By enticing Yatra to further negotiate and more importantly not litigate and thereby upset the proverbial apple cart for Ebix, Ebix secured breathing room to finalize the Tenth Amendment and announce its financial results.

iv. The Lender Defendants Negotiate The Tenth Amendment to Eliminate The Put Right

150. While Yatra attempted to negotiate in good faith with Ebix on the Heads of Terms, Ebix took advantage of the breathing room to make impossible a closing of the deal documented in the operative Merger Agreement. Ebix proceeded to work with the Lender Defendants, who were fully aware of the terms of the Merger Agreement, to circumvent it (and, in particular, the Put Right) by entering into the Tenth Amendment prior to Yatra exercising any of its remedies under the Merger Agreement or even being aware of any materially altered economic conditions.

151. Regions Bank had served as the Administrative Agent, the Collateral Agent, and a lender under the Credit Facility since August 5, 2014. The other Lender Defendants also have long-standing relationships with Ebix. BMO Harris Bank

N.A. (since at least June 17, 2016), BBVA USA (f/k/a Compass Bank) (since at least February 21, 2018), Fifth Third Bank, N.A. (since at least February 3, 2015), KeyBank National Association (since at least June 17, 2016), Silicon Valley Bank (since at least August 5, 2014), Cadence Bank (since at least June 17, 2016), and Trustmark National Bank (since at least June 17, 2016) have provided financing to Parent.

152. The Credit Agreement has been amended at least ten times since it was first entered into on August 5, 2014. Of particular relevance to this Action are the Ninth Amendment, dated as of September 27, 2019, and the Tenth Amendment, dated as of May 7, 2020.

153. To allow the original Merger to close, Parent, certain Ebix subsidiaries as guarantors, the Agent Defendant, and each of the Lender Defendants executed the Ninth Amendment. In its Form 10-Q for the fiscal period ended October 31, 2019 and filed on November 12, 2019, Ebix disclosed that the Ninth Amendment, in part, “amended the definition of . . . ‘Indebtedness’ to disqualify equity interests to be issued regarding the Yatra Online acquisition.”

154. In particular, a defined term “Yatra Disqualified Equity Interests” was added, and it specifically addressed the Convertible Preferred Stock to be issued as Merger consideration *inclusive of the Put Right*:

“ ‘Yatra Disqualified Equity Interests’ means the preferred Equity Interests issued by the Borrower to the sellers of Yatra Online, Inc., so long as such Equity Interests (a) have no maturity date, (b) are not mandatorily redeemable, (c) are only redeemable at the option of the holder for a single 30-day period commencing on the date that is 24 months after the date of issuance thereof, (d) **have a mandatory redemption price not in excess of \$53.10 per share** and (e) do not provide for any scheduled payments of dividends in cash.”

(Highlighting added.)

155. Respecting the “Indebtedness” definition, the Ninth Amendment explicitly carved out “Yatra Disqualified Equity Interests in an amount up to \$260,000,000” (*i.e.*, the projected cash exercise value of the Put Right) such that its issuance, ***inclusive of the Put Right***, would not run afoul of the Credit Agreement’s covenants related to the prohibition of incurring “Indebtedness”:

(b) clause (e) of the definition of “Indebtedness” set forth in Section 1.1 thereof is amended by replacing such clause in its entirety with the following:

“(e) Disqualified Equity Interests **(other than the Yatra Disqualified Equity Interests in an amount up to \$260,000,000, which shall not constitute Indebtedness for any purpose under this Agreement);**”

(Highlighting added.)

156. In other words, each of Ebix, the Agent Defendant, and the Lender Defendants knew that the Put Right was a crucial component of the Merger consideration payable to Yatra, and they initially contracted (in the Ninth Amendment) such that its provision would not trigger an event of default under the Credit Agreement.

157. On May 7, 2020, when the Merger Agreement was in full force and effect, Parent, certain Ebix subsidiaries as guarantors, the Agent Defendant, and each of the Lender Defendants executed the Tenth Amendment. As of this date, May 7, 2020, the Put Right equaled approximately 40.37% of Ebix's market capitalization.

158. In its Form 10-Q for the fiscal period ended June 30, 2020 and filed on August 7, 2020, Ebix disclosed that the Tenth Amendment "provides for, among other things, increased flexibility under financial maintenance covenants, which the Company sought in part due to the unforeseen negative effects of the COVID-19 pandemic."

159. Similarly, Hamil, Ebix's newly minted CFO and former Regions Bank banker, commented on the execution of the Tenth Amendment, stating: "Ebix is pleased with the support of its syndicate of banks, as evidenced by the recently closed amendment to its senior secured corporate credit facilities. This amendment provides additional flexibility for the Company to operate through the current COVID-19 global pandemic."

160. What Ebix failed to disclose, and unbeknownst to Yatra until recently, is that, pursuant to the Tenth Amendment, Ebix, the Agent Defendant, and the Lender Defendants entirely foreclosed Ebix's ability to issue the Put Right *while the Merger Agreement was still in full force and effect*.

161. In other words, Ebix, the Agent Defendant, and the Lender Defendants knowingly made it impossible for Ebix to fulfill its contractual obligations under the Merger Agreement without triggering an Event of Default under the Credit Agreement. Ebix, with the assistance of the Agent Defendant and the Lender Defendants, purposefully put itself between Scylla and Charybdis to avoid the Merger.

162. Specifically, the Tenth Amendment added the defined term “Yatra Acquisition” that explicitly removed the Put Right from the transaction approved by the Lender Defendants:

“Yatra Acquisition” means the purchase of Yatra Online, Inc., a Cayman Islands exempted company limited by shares (“Yatra”), by the Borrower pursuant to that certain agreement between Borrower and Yatra dated July 16, 2019, as such agreement may be amended or otherwise modified after July 16, 2019 by the Borrower and Yatra to contemplate Equity Interests of the Borrower as the sole consideration for Yatra and to remove from the consideration the cash put option contemplated by the initial agreement.

(Highlighting added.)

163. Moreover, the definition of “Yatra Disqualified Equity Interests” was amended in the Tenth Amendment also to eliminate Ebix’s ability to issue the Put Right as part of the Merger consideration:

“Yatra Disqualified Equity Interests” means the preferred Equity Interests issued by the Borrower to the sellers of Yatra, solely for the purposes of consummating the Yatra Acquisition so long as such Equity Interests (a) have no maturity date, (b) are not mandatorily redeemable or otherwise subject to any “put” at the option of the holder, (c) are only redeemable at the option of the issuer for (i) a 30-day period commencing on the date that is 36 months after the date of issuance thereof and (ii) a 30-day period commencing on the date that is 48 months after the date of issuance thereof, (d) do not provide for any scheduled payments of dividends in cash prior to the date that is four years after the date of issuance thereof and (e) after the date that is four years after the date of issuance thereof, are subject to an annual cash dividend not in excess of \$5,300,000 in the aggregate.

(Highlighting added.)

164. “Yatra Disqualified Equity Interests,” up to \$260 million, is a subset of the defined term “Excluded Disqualified Equity Interests.” The definition of “Indebtedness” carves out “Excluded Disqualified Equity Interests,” meaning that, unlike under the Ninth Amendment, *the Put Right is not carved out of “Indebtedness”*:

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP (except as provided in clause (b) below):

(a) all obligations for borrowed money, whether current or long-term (including the Obligations hereunder), all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments but specifically excluding trade payables incurred in the ordinary course of business;

(b) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than ninety days after the date on which such trade account payable was created), including any Earn Out Obligations or other similar deferred or contingent obligations incurred in connection with any Acquisition recognized as a liability on the balance sheet of the Borrower and its Subsidiaries in accordance with GAAP;

(c) all obligations under letters of credit (including standby and commercial), bankers’ acceptances and similar instruments (including bank guaranties);

(d) the Attributable Principal Amount of Capital Leases and Synthetic Leases;

(e) Disqualified Equity Interests (other than the Excluded Disqualified Equity Interests, which shall not constitute Indebtedness for any purpose under this Agreement);

(f) all Guarantees in respect of Indebtedness of another Person;

(g) net obligations under any Swap Agreement or any Convertible Notes Hedges;

(h) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed; and

(i) all Indebtedness of the types referred to in clauses (a) through (h) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company or comparable construct under the laws of a jurisdiction other than the United States) in which the Borrower or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to the Borrower or such Subsidiary.

(Highlighting added.)

165. Instead, were Ebix to issue the Put Right, the Put Right would fall within the definition of “Indebtedness.” Specifically, the Put Right would fall under subsection (b) of “Indebtedness” as “other similar deferred or contingent obligations incurred in connection with any Acquisition recognized as a liability on the balance sheet of the Borrower and its Subsidiaries in accordance with GAAP.”

166. With certain inapplicable exceptions, Section 8.1 of the Tenth Amendment unequivocally prohibits the incurrence of “Indebtedness.” Because the Tenth Amendment removes the Put Right from the definition of the carve out for the Yatra deal, the issuance of such Put Right worth nearly \$260 million would therefore breach Section 8.1 of the Tenth Amendment.

167. A breach of Section 8.1 of the Tenth Amendment would result in an Event of Default under Section 9.1(c). Upon an Event of Default, the lenders under Section 9.2 of the Tenth Amendment would have the ability to (a) accelerate Parent’s debt and (b) foreclose on its collateral (*i.e.*, ***all*** of Parent’s assets).

168. Accordingly, Ebix’s issuance of the Put Right pursuant to the Merger Agreement (which was still in full force and effect) would have triggered an Event of Default under the Tenth Amendment and allowed the Lender Defendants to accelerate Parent’s debt and foreclose on all of Parent’s assets. The Lender Defendants, as secured creditors, would also come before Yatra’s stockholders in

any liquidation of Ebix's assets, since Yatra's stockholders would now be Ebix stockholders.

169. Ebix does not have the funds to repay an acceleration of its bank debt. According to Ebix's Form 10-Q filed for the fiscal period ended June 30, 2020, Ebix has \$77.3 million in cash and cash equivalents. That amount pales in comparison to the \$439.4 million outstanding under the Credit Facility.

170. In addition to its definition of "Indebtedness" and the related negative covenant in Section 8.1 of the Tenth Amendment, other provisions of the Tenth Amendment independently foreclosed Ebix's ability to issue the Put Right.

171. For instance, issuance of the Put Right also would have violated Parent's negative covenants related to "Investments" in Section 8.5 of the Tenth Amendment. "Investment" is defined exceedingly broadly and captures payment of the Put Right as Merger consideration. Section 8.5 of the Credit Agreement prohibits Ebix from making any direct or indirect Investments, with certain enumerated exceptions that would not apply to the Put Right valued at nearly \$260 million. Like with a violation of Section 8.1 of the Tenth Amendment, a violation of Section 8.5 of the Tenth Amendment would trigger an Event of Default and allow the Lender Defendants to accelerate Parent's debt and foreclose on all of Parent's assets.

172. In sum, Ebix, the Agent Defendant, and the Lender Defendants knowingly amended the Credit Agreement with the Tenth Amendment in order to

prevent Ebix's compliance with the Merger Agreement, which they knew was *still in full force and effect*. As demonstrated by the plain language of the Ninth Amendment, each of these Defendants knew the importance of the Put Right as Merger consideration. Nevertheless, without Yatra's consent, they reached a contractually binding deal that made payment of the Put Right impossible and nullified the Merger under the Tenth Amendment.

173. Simply put, Ebix's entry into the Tenth Amendment blatantly breached multiple provisions of the Merger Agreement, including the Best Efforts Provision and the implied covenant of good faith and fair dealing. And, by executing the Tenth Amendment, the Agent Defendant and the Lender Defendants intentionally and tortiously interfered with the Merger Agreement.

174. This egregious misconduct did not come to light until August 9, 2020, when Ebix filed its Form 10-Q for the fiscal period ended June 30, 2020.

v. Ebix Continues To String Yatra Along

175. After Ebix finalized the Tenth Amendment and made closing on the terms set forth in the Merger Agreement impossible, it continued to string Yatra along despite not having any intention to close an acquisition.

176. On May 8, 2020 (*i.e.*, the day after the effective date of the Tenth Amendment), an email from Yatra's counsel to Ebix's counsel spurred Ebix into illusory action. In this email, Yatra expressed a willingness to renegotiate the deal,

but provided certain parameters for such discussions that were “absolutely necessary for Yatra’s Board to be able to carefully consider whether the parties can reach agreement on any renegotiated terms”:

While Yatra is amenable to attempting to [renegotiate certain terms of the Merger], as of right now, there are two barriers to doing so: (1) allowing Yatra’s lawyers (along with [its auditors], Citi and Yatra’s Board members) to participate in a diligence call with Ebix regarding the [REDACTED], the issues raised in those letters, and the status of Ebix’s discussions with the [REDACTED]; and (2) Ebix providing a term sheet that clearly and unambiguously articulates Ebix’s proposal.

177. The May 8, 2020 email reiterated that the Merger Agreement had no automatic termination provision, and that the Outside Date Termination Right was unavailable to Ebix due to its multiple breaches of the Merger Agreement. The email attached a draft press release that Yatra would disseminate should Ebix purport to terminate impermissibly the Merger Agreement.

178. The press release was drafted “to explain to the market why the Merger has not closed and [Yatra’s] intention to hold Ebix accountable for its multiple breaches of the Merger Agreement.” The draft press release referenced Ebix’s outstanding and unresolved [REDACTED] to illustrate certain of these breaches.

179. With Ebix set to announce its first quarter financial results three days later, on May 11, 2020, it wanted to avoid intense stockholder scrutiny upon its accounting issues coming to light.

vi. Ebix Breaches The Extension Agreement

180. On May 14, 2020, Yatra and Ebix agreed to a fourth extension of the Outside Date (the “Extension Agreement”), which not only pushed out the Outside Date to June 4, 2020, but it also imposed certain affirmative obligations on Ebix that mirrored the parameters set forth in the May 8, 2020 email, including to:

- make its officers and legal counsel available for diligence sessions “necessary to satisfactorily assess the diligence issues” (the “Diligence Covenant”);
- provide Yatra a proposed draft of the revised Certificate of Designations of the Ebix Series Y Preferred stock, “which shall clearly articulate and set forth Ebix’s proposed modified terms for the Series Y Preferred stock” (the “COD Covenant”);
- provide Yatra a proposed draft Merger Agreement amendment, which “shall clearly articulate and set forth Ebix’s proposed modified terms to the Merger Agreement” and “shall include provisions for an interim \$10,000,000 financing from Ebix to Yatra”; and
- “promptly provide revised drafts of transaction documents . . . and negotiate in good faith with Yatra.” (the “Good Faith Covenant.”)

181. Promptly after executing the Extension Agreement, Ebix breached the Diligence Covenant, the COD Covenant, and the Good Faith Covenant.

182. *First*, in accordance with the Diligence Covenant, Yatra, Ebix, and their advisors met for a diligence session on May 18, 2020. As part of that diligence session, Yatra and its advisors asked questions about Ebix’s [REDACTED]

[REDACTED]

[REDACTED] Despite Yatra having the right to ask questions “necessary to satisfactorily

assess the diligence issues” (and such [REDACTED] being core to the ability to close the Merger), Ebix staunchly refused to provide any detail, in violation of the Extension Agreement.

183. Instead, Ebix merely pointed Yatra to its public filings to answers for its questions, and Raina dismissively (and incorrectly) stated “[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

184. *Second*, in violation of the COD Covenant, Ebix did not provide Yatra a proposed draft of the revised Certificate of Designations of the Ebix Series Y Preferred stock, “which shall clearly articulate and set forth Ebix’s proposed modified terms for the Series Y Preferred stock.”

185. *Third*, in accordance with the Good Faith Covenant, Ebix agreed to negotiate with Yatra in good faith. Ebix did not fulfil this obligation, in violation of the Extension Agreement. More specifically, pursuant to the Extension Agreement, Ebix agreed to send to Yatra a proposed draft Merger Agreement amendment (the “Draft Amendment”) by May 18, 2020. As discussed above, Shringi and Raina agreed that the Draft Amendment would include the terms set forth in the Heads of Terms, as modified by their subsequent discussion.

186. Ebix met this May 18, 2020 deadline, but the Draft Amendment shockingly modified, or all together deleted, certain materials terms that had been agreed upon between the parties pursuant to the Heads of Terms and the subsequent discussion between Shringi and Raina:

- Under the Heads of Terms, in exchange for eliminating the Put Right, Ebix had offered to issue a stock dividend for the Convertible Preferred Stock payable 25 months after Closing. Raina thereafter promised to reduce the number of shares issued in accordance with the dividend to avoid an Ebix stockholder vote, by offsetting that reduction with equivalent consideration in a different form. The Draft Amendment, however, did not include *any* stock dividend or corresponding economically equivalent consideration in a different form.
- Under the Heads of Terms, Ebix agreed that Yatra would have the ability to raise up to \$10 million in incremental capital prior to the Closing, but such financing would have to be reviewed and approved by Ebix. Instead of allowing Yatra to access capital on fair or market terms, Ebix proposed a predatory structure that could allow Ebix to seize one of Yatra's crown jewel assets for pennies on the dollar. Specifically, Ebix proposed that it would lend the \$10 million to Yatra and take the equity of one of Yatra's subsidiaries as collateral. Such subsidiary is worth multiple times \$10 million. Ebix's offer required that, if the revised merger agreement were terminated *for any reason*, Yatra would have to repay the loan *within ten days or else Ebix could foreclose on all of the equity of the subsidiary*.
- Ebix had proposed assuming [REDACTED] Specifically, Ebix had agreed to pay a \$10 million dollar quasi-break fee to Yatra should it not get the [REDACTED] and this quasi-break fee would be in addition to any other remedies that Yatra could seek under the Merger Agreement and the Extension Agreement. This quasi-break fee concept is entirely absent from the Draft Amendment.

187. When Yatra's counsel questioned Ebix's counsel about this unacceptable "bait and switch," Ebix's counsel simply advised such terms were "off the table." By this point, Ebix had executed the Tenth Amendment (unbeknownst to Yatra), received a clean annual audit, and disclosed its first quarter fiscal results. Thus, it no longer had a need to keep Yatra from commencing litigation to protect its rights.

188. But Ebix had also effectively gutted Yatra's valuable Put Right consideration, making specific performance of the contract impossible. In other words, while it negotiated the Tenth Amendment with the Agent Defendant and Lender Defendants and finalized its audit, Ebix intentionally dangled in bad faith revised terms before Yatra. In doing so, Ebix intended (and succeeded) in causing Yatra to delay terminating the Merger Agreement, issuing a truthful (but damaging for Ebix) press release, and exercising its right to sue for specific performance, damages, and/or to terminate the Merger Agreement.

189. Ebix never had any intention of agreeing to such terms. Just as soon as it achieved its goals, it summarily withdrew its terms—*after* Yatra had relied on those terms to refrain from suing Ebix for its conduct.

190. On May 26, 2020, in a last-ditch effort to avoid this very litigation, and without knowledge of Ebix's fraud, Yatra's counsel sent a term sheet for a revised deal (the "Revised Term Sheet") to Ebix's counsel. The Revised Term Sheet

outlined a deal that reflected the Heads of Terms, as modified by the subsequent discussion between Shringi and Raina. Yatra's counsel noted that "[t]he Yatra board views these items as essential, as well as the satisfactory completion of the Yatra board's legal and financial analysis as to whether the transaction with Ebix can close."

191. Ebix refused to respond to Revised Term Sheet until (a) it received written responses to certain diligence questions and (b) the parties held a diligence call. Although Ebix did not have a contractual right for either of these demands, Yatra agreed to each in the interest of determining whether the parties could reach agreement on any revised deal terms. On May 31, 2020, Yatra responded to Ebix's written questions and offered to hold a diligence call on June 2, 2020.

192. Nevertheless, Ebix continued its games. It refused to hold a diligence call until Yatra provided even more information (despite no contractual requirement to do so), and Ebix refused to provide [REDACTED].

193. The extended Outside Date of June 4, 2020 thereafter elapsed. Accordingly, Yatra declared material breaches of the Merger Agreement and the Extension Agreement. It provided its notice of termination of the Merger Agreement by email to Raina, as required by the Merger Agreement. Raina resides and works in India. Yatra also filed the Original Complaint against Ebix prior to the date on which its termination of the Merger Agreement was effective under the contract.

194. On June 19, 2020, or less than two weeks after Yatra terminated the Merger Agreement, Ebix secured clearance of all of its [REDACTED] from the SEC.

COUNT I
BREACH OF CONTRACT AGAINST EBIX
(Merger Agreement)

195. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 194 above as if fully set forth herein.

196. The Merger Agreement is a valid and enforceable contract, and Yatra substantially performed its obligations and has not breached the Merger Agreement.

197. Yatra satisfied all conditions precedent in the Merger Agreement before initiating the instant action.

198. Ebix breached a number of the Merger Agreement's provisions, including the Accuracy Provisions, the Accounting Provisions, the S-4 Provisions, and the Best Efforts Provision, by: (a) failing to file the S-4 with the SEC within 45 days of the Signing Date; (b) failing to use reasonable best efforts to have the S-4 declared effective by the SEC as promptly as practicable after filing; (c) filing a false annual report; (d) failing to disclose regulatory inquiries into its accounting practices or policies; (e) filing financial statements that did not comply in all material respects with applicable accounting requirements and SEC rules and regulations; and (f) agreeing to the Tenth Amendment that required amendments to the Merger

Agreement (while the Merger Agreement was in full force and effect) that, among other things, would eliminate Ebix's ability to issue the Put Right.

199. Yatra suffered harm as a result of Ebix's breaches of the Merger Agreement. Yatra is entitled to damages in an amount to be proven at trial, as well as to all other relief this Court deems just and equitable.

COUNT II
BREACH OF CONTRACT AGAINST EBIX
(Extension Agreement)

200. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 194 above as if fully set forth herein.

201. The Extension Agreement is a valid and enforceable contract, and Yatra substantially performed its obligations and has not breached the Extension Agreement.

202. Yatra satisfied all conditions precedent in the Extension Agreement before initiating the instant action.

203. Ebix breached a number of the Extension Agreement's provisions, including the Diligence Covenant, the COD Covenant, and Good Faith Covenant, due to its failure to negotiate in good faith, to provide Yatra with a revised Certificate of Designations, and to provide Yatra information to which it is entitled.

204. Yatra suffered harm as a result of Ebix's breaches of the Extension Agreement. Yatra is entitled to damages in an amount to be proven at trial, as well as to all other relief this Court deems just and equitable.

COUNT III
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING
(Against Ebix)

205. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 194 above as if fully set forth herein.

206. The covenant of good faith and fair dealing inheres in every contract subject to Delaware law, including the Merger Agreement and Extension Agreement at issue in this case.

207. The covenant precludes one contract party from taking advantage of the other by inferring missing terms in a contract which, had they been considered by the contracting parties, would have been agreed to.

208. The covenant inheres in every contract as a matter of law and public policy and is not subject to waiver.

209. In this case, the Merger Agreement and the Extension Agreement did not include terms which expressly prohibited Ebix from: (a) acting in bad faith by purporting to renegotiate the contract without any intent to close on the renegotiated terms in order to induce Yatra to forbear from exercising its right to sue for specific performance or damages and/or to terminate the contract until it could accomplish

its own unrelated objectives and (b) agreeing to a contract with third parties (the Tenth Amendment in this case) that prohibited Ebix from performing its obligation to issue the Put Right.

210. Had the negotiating parties considered whether Ebix would have been allowed to: (a) materially renegotiate the very consideration for the Merger Agreement while having no intention of closing and (b) negotiate with third parties to strip the Merger Agreement of the consideration provisions in the form of the Put Right so as to deny Yatra the benefit of its bargain, they would have prohibited such conduct without question.

211. Ebix knew that it had no intention of performing its obligations under the Merger Agreement or the proposed revised terms of the Merger Agreement when it began its renegotiation with Yatra. Yet Ebix nonetheless led Yatra to believe that the Merger would still close on revised and economically plausible terms and within the extended Outside Dates. As a result of these bad faith tactics, Ebix not only denied Yatra the benefit of its Merger Agreement bargain, but also caused Yatra to irrevocably forego any recourse or mitigation options. As part of renegotiation, Ebix promised: a stock dividend supplemented by other economic considerations; a loan in the amount of \$10 million to Yatra on reasonable and customary terms; and agreed to pay a fee of \$10 million in the event that the Merger did not close due to Ebix's failure to [REDACTED] Ebix did so to induce Yatra to forego

exercising its rights, suing for specific performance, and/or declaring a breach, or otherwise making public Ebix's bad faith conduct jeopardizing the Tenth Amendment negotiations.

212. Yatra fundamentally changed its position in reliance on Ebix's proposed terms by not taking action to protect its original Merger Agreement, such as bringing a suit for specific performance (or otherwise), at a time when it had leverage to insist on its favorable Put Rights and other rights, *i.e.*, while Ebix was facing renegotiations with its bank syndicate.

213. Moreover, had Yatra known that Ebix was bargaining away its rights in negotiations with the Agent Defendant and Lender Defendants, Yatra would have moved immediately to protect those rights, including by serving notice on all members of the lending syndicate that it would protect its rights, and, if necessary, taking legal action in connection therewith.

214. Promptly after Ebix secured the Tenth Amendment it: (a) reneged on its undertaking to provide specific terms of the new preferred stock issuance in the form of a Certificate of Designations; (b) reneged on the undertaking to provide a \$10 million loan to Yatra; (c) reneged on its agreement to pay a break-up fee in the event that it could not [REDACTED]; and (d) refused to perform under the original Merger Agreement.

215. Ebix's conduct was a material breach of the covenant of good faith and fair dealing which damaged Yatra in an amount to be proven at trial.

COUNT IV
FRAUD
(Against Ebix)

216. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 194 above as if fully set forth herein.

217. At some point during the course of dealing between the parties, after the execution of the Merger Agreement, Ebix determined that it would not close the Merger. Ebix determined to dissemble, engage in pretextual renegotiation, and act in a false and misleading way for the purpose of misleading Yatra not to exercise its rights under the Merger Agreement.

218. Ebix misled Yatra because it had a problem. Ebix's stock began to decline in November 2019 and, soon after the COVID-19 pandemic hit, Ebix was faced with a dramatic slowdown in its business and the need to renegotiate its Credit Agreement at the same time that it was concluding its annual audit. The relative value of the Put Right had also ballooned in comparison to Ebix's market capitalization.

219. Ebix knew that it would be unable to amend the Credit Agreement without a clean audit, and that it would be unable to secure a clean and timely audit report on its 2019 financial statements if its outside audit firm was uncomfortable

with pending or threatened litigation over the Merger Agreement and, in particular, the Put Right.

220. Thus, for a period of time in the early spring of 2020, Ebix faced two compelling corporate needs: *first*, to avoid disclosure of its existing [REDACTED] [REDACTED] challenging, among other things, its [REDACTED] and *second*, to stop Yatra from either terminating the Merger Agreement or commencing litigation with respect to Ebix's breaches of the agreement, which would put in jeopardy the timely completion of the audit and the Tenth Amendment itself.

221. At the same time that it faced these compelling needs, Ebix also saw its stock price drop more than 52%, from \$38.60 on February 14, 2020 to \$16.89 on April 9, 2020 (the last trading day prior to the initial Outside Date), in reaction to, *inter alia*, the COVID-19 pandemic, making the value of the Put Right promised to Ebix as part of the Merger (a fixed obligation) balloon in relation to Ebix's equity value. Indeed, from the Signing Date to April 9, 2020, Ebix saw the value of the Put Right (at face value) rise from about 17.50% of Ebix's equity value, to about 49.93%.

222. Ebix's solution to the situation it found itself in was to disassemble: to offer to renegotiate with Yatra on favorable terms; to make promises that it knew it would not keep; and to induce Yatra into forbearing from exercising its specific performance, termination, and/or other litigation options until the time that the

auditors had signed off on the 2019 audit and the banks had finalized the Tenth Amendment.

223. For its part, Yatra preferred the original Merger Agreement with its ever more valuable Put Right, but also was willing to consider a renegotiation on valuable economic terms that were proposed by Ebix in order to avoid protracted litigation and the attendant distraction to Yatra's executives and business in enforcing the original Merger Agreement.

224. Ebix secured Yatra's forbearance through purposefully misleading and fraudulent promises and/or representations. It knew that those promises and/or representations were false when made, and it intended that such promises and/or representations would dissuade Yatra from asserting its rights at the very time, indeed the only time, that it would have leverage to enforce those rights.

225. Ebix also made numerous false promises and representations to Yatra about Ebix's willingness to renegotiate the Merger Agreement in good faith when, in actuality, Ebix never intended to enter into an amended deal on the revised terms it proposed to Yatra.

226. As noted above, on May 3, 2020, Ebix provided Yatra with the Heads of Terms for a renegotiated deal. The Heads of Terms laid out a transaction that was less desirable to Yatra from a financial point of view, but which were sufficiently attractive that they had the actual effect of causing Yatra not to immediately sue for

specific performance, terminate the deal, and/or seek other relief. The Heads of Terms included, among other things, provisions pursuant to which:

- Ebix would grant Yatra a stock dividend in exchange for the elimination of the Put Right;
- convertible preferred stock would be issued that could be converted into common stock in certain specified circumstances;
- Yatra could raise \$10 million in incremental capital, subject to Ebix's review and approval; and
- the expense reimbursement for Ebix would be reduced should Yatra stockholders reject the transaction.

227. Although the Heads of Terms contemplated a stock dividend to Yatra, it soon became clear that the offer would require Ebix to issue more than 20% of its stock, thus necessitating a shareholder vote under NASDAQ rules, which neither side wanted to happen.

228. In response, on or about May 3 or May 4, 2020, Shringi and Raina had telephonic discussions in which Raina agreed to modify and enhance certain provisions of the Heads of Terms, including: (a) a reduction in the total number of shares issued in the stock dividend to be offset with equivalent economic consideration in a different form to avoid a vote of Ebix stockholder while still providing Yatra with valuable economic consideration for the demise of the Put Right; (b) Ebix would assume that risk associated with the [REDACTED] [REDACTED] by agreeing to pay Yatra a \$10

million fee [REDACTED]; and
(c) Ebix would provide a loan in the amount of \$10 million to Yatra on commercially reasonable terms.

229. Raina made this offer to Shingri intending to cause Yatra to continue to renegotiate. Unbeknownst to Yatra, Raina (and Ebix) had no intention of honoring these terms. Instead, Raina (and Ebix) simply wanted breathing room to negotiate the Tenth Amendment with the Agent Defendant and the Lender Defendants.

230. Yatra, for its part, found the terms sufficiently attractive to continue the re-negotiation. Of special importance to Yatra was the promise to solve the NASDAQ vote problem with alternative (and valuable) consideration, as well as Ebix's agreement to assume part of the regulatory risk posed by the [REDACTED] [REDACTED] process by committing to pay a substantial fee tied to Ebix's clearance of the [REDACTED]. Moreover, the offer to finance Yatra was important to the Company and played an important role in Yatra's decision not to take steps to protect its rights under the Merger Agreement, which continued in full force and effect.

231. Yatra neither knew, nor had any reason to suspect, that Ebix was acting in bad faith and merely playing for time to keep Yatra from exercising its rights while it renegotiated its Credit Agreement.

232. In reliance on the Heads of Terms and Shringi and Raina's subsequent conversation, Yatra agreed to the Extension Agreement on May 14, 2020. Among

other things, Ebix falsely promised Yatra in the May 14 Extension Agreement that it would provide a “draft of the revised Certificate of Designations of the Ebix Series Y Preferred stock” clearly articulating Ebix’s proposed modified terms for the issue.

233. Ebix’s promises and representations in the Heads of Terms, Raina’s promises and representations to Shringi during their telephonic conversation, and the promises set forth in the Extension Agreement were false and misleading. Specifically, when Ebix provided Yatra the Draft Amendment, the Draft Amendment: (a) did not contain a draft Certificate of Designations including concrete terms of the new proposed preferred stock; (b) did not include offsetting economics for the reduction in the stock dividend; (c) offered to provide \$10 million of capital on predatory, non-market terms; and (d) omitted entirely the \$10 million [REDACTED] break fee.

234. With respect to the predatory loan proposal, Ebix proposed that it would lend the \$10 million to Yatra and take the equity of one of Yatra’s subsidiaries as collateral. Such subsidiary is worth multiples of \$10 million. Ebix’s offer required that, if the revised merger agreement were terminated *for any reason*, Yatra would have to repay the loan *with ten days or else Ebix could foreclose on all of the equity of the subsidiary*. Such financing terms are not commercially reasonable.

235. When Yatra's counsel questioned Ebix's counsel about this "bait and switch," Ebix's counsel simply advised that the previously promised economic terms were "off the table."

236. The statements and promises described in paragraphs 224-235 above were made by Ebix at a time when it never intended to follow through on them and at a time when it had a need to avoid a declaration of breach of the Merger Agreement so that it could complete the Tenth Amendment. The purpose of such promises was to cause Yatra to delay in exercising its rights, suing for specific performance, and/or declaring a breach.

237. Yatra reasonably relied on Ebix's promises and did not act to enforce the terms of its existing Merger Agreement at a time when it had leverage to insist on its favorable Put Right and other rights, *i.e.*, while Ebix was seeking sign-off from its auditors and facing renegotiations with its bank syndicate.

238. Yatra's reliance on Ebix's promises caused it harm. Not only did it surrender the leverage it had at the time, but immediately after Ebix's crisis passed, Ebix promptly reneged on the key promises it had made to induce Yatra's forbearance and refused to perform under the original Merger Agreement. Accordingly, Ebix's conduct was a fraud on Yatra.

239. Yatra was damaged by Ebix's knowingly false statements in an amount to be proven at trial.

COUNT V

TORTIOUS INTERFERENCE WITH CONTRACT **(Against the Agent Defendant and the Lender Defendants)**

240. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 194 above as if fully set forth herein.

241. The Agent Defendant and Lender Defendants were fully aware of the Merger Agreement and the importance of the Put Right as Merger consideration to Yatra. This knowledge is evidenced by the terms of the Ninth Amendment and the corresponding changes in the Tenth Amendment.

242. Yatra was unaware that while it sought in good faith to abide by the terms of the Merger Agreement (in full force and effect during the negotiation and the execution of the Tenth Amendment) and continue in discussions with Ebix, the fate of the Merger Agreement (and the Put Right) was already preordained by the Tenth Amendment.

243. On of May 7, 2020, the date of the execution of the Tenth Amendment, the Agent Defendant and Lender Defendants intentionally caused Ebix to breach the Merger Agreement by eliminating Ebix's ability to issue the Put Right to Yatra as Merger consideration, effectively making the Merger a nullity.

244. By depriving Yatra of the benefit of its bargain and fundamentally and materially altering the landscape of Yatra's economic reality in connection with the Merger Agreement (a fact never disclosed to Yatra), the Agent Defendant and the

Lender Defendants without any justification interfered with Yatra's rights under Merger Agreement.

245. Hidden from public disclosure until August 9, 2020, the Agent Defendant and the Lender Defendants damaged Yatra by entering into the Tenth Amendment and impermissibly destroying the economic value of the Put Right by interfering with the Merger Agreement, in the amount to be proven at trial.

WHEREFORE, Plaintiff demands judgment as follows:

A. Awarding Yatra damages, in an amount to be proven at trial, arising from Ebix's breaches of the Merger Agreement and the Extension Agreement;

B. Awarding Yatra damages, in an amount to be proven at trial, arising from Ebix's breach of the implied covenant of good faith and fair dealing;

C. Awarding Yatra damages, in an amount to be proven at trial, arising from Ebix's fraud on Yatra;

D. Awarding Yatra damages, in an amount to be proven at trial, arising from the Agent Defendant's and the Lender Defendants' tortious interference with the benefits of the Merger Agreement to Yatra;

E. Awarding Yatra pre-judgment and post-judgment interest, as well as their reasonable attorneys' and expert witnesses' fees and other costs; and

F. Awarding such other and further relief as this Court may deem just and proper.

Dated: September 25, 2020

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

OF COUNSEL:

Mark Lebovitch
Daniel E. Meyer
**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**
1251 Avenue of the Americas
New York, NY 10020
(212) 554-1400

/s/ Gregory V. Varallo

Gregory V. Varallo (Bar No. 2242)
500 Delaware Avenue
Suite 901
Wilmington, DE 19801
(302) 364-3601

*Counsel for Plaintiff As to All
Defendants Except Fifth Third Bank,
N.A.*

MOEN LAW LLC

/s/ Alisa E. Moen

Alisa E. Moen (Bar No. 4088)
34 Beethoven Drive
Wilmington, DE 19807
(469) 516-0667

*Of Counsel and Conflicts Counsel for
Plaintiff As to Fifth Third Bank, N.A.*

CERTIFICATE OF SERVICE

I, Gregory Varallo, hereby certify that, on September 30, 2020, the foregoing *Public [redacted] version of the Verified Amended Complaint* was filed and served via File & ServeXpress upon the following counsel of record:

Paul J. Lockwood, Esq.
Cliff C. Gardner, Esq.
Mary T. Reale, Esq.
SKADDEN ARPS SLATE
MEAGHER & FLOM LLP
One Rodney Square
Wilmington, DE 19899

/s/ Gregory V. Varallo
Gregory V. Varallo (Bar No. 2242)