Risk Factors

The Company faces a number of significant risks and uncertainties in connection with its operations. The most significant of these are described below. These risks and uncertainties may not be the only ones facing the Company. Additional risks and uncertainties not presently known, or currently deemed immaterial, may adversely affect the Company in the future. In addition to the other information included in this Annual Report on Form 10-K, investors should carefully consider the following risk factors. If any of the events or developments described below occurs, it could have a material adverse effect on the Company's business, financial condition or results of operations.

The Proposed Transfer of Kaplan University Is Subject to Receipt of Regulatory Approvals That If Not Obtained, Could Delay Consummation of the Proposed Transaction and Could Disrupt the Business of Kaplan University During the Pendency of the Transaction

On April 27, 2017, certain Kaplan subsidiaries entered into a Contribution and Transfer Agreement (Transfer Agreement) to contribute the institutional assets and operations of KU to a new, non-profit, public-benefit corporation affiliated with Purdue University (Purdue) in exchange for a Transition and Operations Support Agreement (TOSA), whereby Kaplan will provide key non-academic operations support to the new university. The proposed transfer of KU is subject to various closing conditions, including, among others, regulatory approvals from the ED, the Indiana Commission for Higher Education (ICHE) and HLC, which is the regional accreditor of both Purdue and KU, as well as certain other state educational agencies and accreditors of programs. ICHE approved the transaction on August 10, 2017, and confirmed that the new university will be considered by the state of Indiana to be a public postsecondary institution. HLC has indicated that it will review the application at its board meeting in late February 2018 after a full staff review. The parties also submitted a pre-acquisition application to the ED seeking approval for the change of control of KU. On September 13, 2017, the ED responded to the pre-acquisition application stating that as of such date it did not see any impediment to approval of the transaction subject to certain conditions on which its ultimate approval relies.

There can be no assurances that these regulatory approvals will be obtained on the currently contemplated timeline or at all. In addition, as a condition to granting these regulatory approvals, a regulatory authority may require changes to the agreement pursuant to which Kaplan will provide post-closing support services, and these changes may negatively impact Kaplan's financial condition and results of operations. A material delay in obtaining such approvals may create uncertainty or otherwise have negative consequences, including adverse changes in our relationships with our students, vendors and faculty; adverse impacts on employee recruiting and retention efforts; and diversion of management's attention and internal resources from ongoing business, any of which may materially and adversely affect our financial condition and results of operations. In addition, during the pendency of the transaction, Kaplan will be required to operate its business in the ordinary course of business consistent with past practice and will be restricted from taking certain actions with respect to its business. We cannot predict with certainty whether and when any of the required closing conditions will be satisfied. Whether or not the proposed transfer to Purdue is consummated, while it is pending, Kaplan will continue to incur costs, fees, expenses and charges related to the proposed transfer of KU. Moreover, if the proposed transfer of KU is consummated, Kaplan may not be able to achieve the expected benefits of the proposed transaction and may be required to advance amounts to the new university, including any priority payment to the new university during the first five years following closing.

If the Proposed Transfer of Kaplan University Is Consummated, Kaplan Would Face Risks as a Third-Party Service Provider to a New University

If the proposed transfer of KU occurs and Kaplan acts as a third-party servicer to a new university, Kaplan will face risks associated with the operation of the new university, including adverse effects on Kaplan's business and operations from a reduction or loss in Kaplan's revenues under its service agreement if the new university loses or has limits placed on its Title IV eligibility, accreditation or state licensure or the new university is subject to fines, repayment obligations or other adverse actions due to non-compliance by the new university or Kaplan with Title IV, accreditor, or state agency requirements; the imposition on Kaplan of fines or repayment obligations to the ED or the termination or limitation on Kaplan's eligibility to provide services to the new university if Kaplan fails to comply with statutory or regulatory requirements applicable to service providers; liability under the service agreement for non-compliance with federal, state or accreditation requirements arising from conduct by Kaplan; and liability for non-compliance with Title IV or other federal or state requirements occurring prior to the closing of the proposed transfer. In addition, Kaplan will face risks related to its business and operations in the event of weak student enrollment and other factors.
If the proposed transfer of KU does not occur, Kaplan will continue to face risks associated with the operations of KU. These risks include those risks noted below.

Failure to Comply With Statutory and Regulatory Requirements Could Result in Loss of Access to U.S. Federal Student Loans and Grants Under Title IV, a Requirement to Pay Fines or Monetary Liabilities or Other Sanctions

To maintain Title IV eligibility, KU must comply with the extensive statutory and regulatory requirements of the Higher Education Act and other laws and accrediting standards relating to its financial aid management, educational programs, financial strength, facilities, recruiting practices, representations made by the school and various other matters. Failure to comply with these requirements could result in the loss or limitation of the eligibility of KU to participate in Title IV programs; a requirement to pay fines or to repay Title IV program funds; a denial or refusal by the ED to consider a school's application for renewal of its certification to participate in the Title IV programs or for approval to add a new campus or educational program; a requirement to submit a letter of credit; the placement of the institution on the heightened cash-monitoring or reimbursement method of payment; the placement of the institution on provisional certification; the imposition of civil or criminal penalties; or other sanctions. On December 17, 2015, KU received notice from the ED that it had been placed on provisional certification status until September 30, 2018. During the period of provisional certification, KU must obtain prior ED approval to open a new location, add an educational program, acquire another school or make any other significant change. Provisional certification status carries fewer due process protections than full certification. As a result, the ED may withdraw an institution's provisional certification more easily than if it is fully certified. Provisional certification does not otherwise limit access to Title IV program funds by students attending the institution.

No assurance can be given that KU programs currently participating in Title IV programs will maintain their Title IV eligibility, accreditation and state authorization in the future or that the ED might not successfully assert that one or more of such programs have previously failed to comply with Title IV requirements. The loss of Title IV eligibility by KU would have a material adverse effect on Kaplan's operating results.

If the transfer of KU is consummated, Kaplan would no longer own or operate KU and would no longer participate in the Title IV programs as an institution. However, Kaplan would face the risks discussed above in connection with providing services to the new university.

Program Reviews, Audits, Investigations and Other Reviews of KHE Schools Could Result in Findings of Failure to Comply With Statutory and Regulatory Requirements

KU is subject to program reviews, audits, investigations and other compliance reviews conducted by various regulatory agencies and auditors, including, among others, the ED, the ED's Office of the Inspector General, accrediting bodies and state and various other federal agencies, as well as annual audits by an independent certified public accountant of the OPEID unit's compliance with Title IV statutory and regulatory requirements. These compliance reviews can result in findings of non-compliance with statutory and regulatory requirements that can, in turn, result in proceedings to impose fines, liabilities, civil or criminal penalties or other sanctions against the school, including loss or limitation of its eligibility to participate in Title IV programs or in other federal or state financial assistance programs. Certain former KHE schools are the subject of ongoing compliance reviews and lawsuits related to their compliance with statutory and regulatory requirements and may be subject to future compliance reviews or lawsuits. Although substantially all of the assets of KHE on-ground schools were sold on September 3, 2015, Kaplan retained liability for the pre-sale conduct of those schools, and there are outstanding program reviews at two of these former schools.

KHE schools have been, and may in the future be, subject to complaints and lawsuits by present or former students or employees or other people related to compliance with statutory, common law and regulatory requirements that, if successful, could result in monetary liabilities or fines or other sanctions.

Reductions in the Amount of Funds Available to Students, Including Under Title IV Programs, in KU, Changes in the Terms on Which Such Funds Are Made Available or Loss or Limitation of Eligibility to Receive Such Funds Could Have a Material Adverse Effect on Kaplan's Business and Operations

During the Company's 2017 fiscal year, funds provided under the student financial aid programs created under Title IV accounted for approximately $374 million of KHE revenues, and 25% of Kaplan Inc. revenues. Any legislative, regulatory or other development that has the effect of materially reducing the amount of Title IV financial assistance or other funds available to the students of those schools would have a material adverse effect on Kaplan's business and operations. In addition, any development that has the effect of making the terms on which Title IV financial assistance or other funds are available to students of those schools materially less attractive could have a material adverse effect on Kaplan's business and operations.

If the transfer of KU is consummated, revenues from Kaplan's service agreement with the new university could be adversely impacted to the extent legislative, regulatory or other developments have the effect of materially reducing tuition revenues by reducing the amount of Title IV financial assistance or other funds available to the students of the new university.

ED Rules Regarding Borrower Defense to Repayment Could Have a Material Adverse Effect on Kaplan's Business and Operations

On November 1, 2016, the ED issued final rules that were scheduled to go into effect on July 1, 2017, that expand the bases on which borrowers may obtain ED discharge of their federal financial aid loans and establish a process for the ED to commence a separate proceeding against the institution to recover the discharged amounts. In June 2017, the ED announced a delay until further notice in the effective date of the majority of these regulations. The ED also announced its intent to convene a negotiated rulemaking committee to develop proposed regulations to revise the regulations on borrower defenses to repayment of Federal student loans and other matters published on November 1, 2016. On October 24, 2017, the ED published an interim final rule that delayed until at least July 1, 2018, the effective date of the majority of these regulations. On the same date, the ED also published a notice of proposed rulemaking that proposed to further delay, until July 1, 2019, the effective date of the majority of the regulations to ensure that there is adequate time to conduct negotiated rulemaking and, as necessary, develop revised regulations. Comments on the proposal were due by November 24, 2017. The ED convened the first meeting of the negotiated rulemaking committee in November 2017 and convened additional meetings in early 2018. The ED intends to issue proposed regulations for public comment during the first half of 2018, but the ED has not established a final schedule. Any regulations published in final form by November 1, 2018, typically would take effect on July 1, 2019, but there is no assurance as to the timing or content of any such regulations. On February 14, 2018, the ED issued a final regulation delaying the effective date of most of the provisions with respect to borrower defense until November 1, 2019. The ED has indicated that, in the meantime, it will continue to accept claims with respect to borrower defense and process them under pre-2016 policies and practices.

The currently delayed rules permit loan discharges based on substantial misrepresentations, breaches of contract, or judgments against the school; in some cases, by classes of students as well as individual students. In addition, the final rules amend the ED's financial responsibility regulations by, among other things, imposing two sets of triggers for determining whether the ED may require the institution to furnish the ED with a letter of credit or other form of acceptable financial protection and to accept other requirements the ED might impose. The rules also require schools not meeting a loan “repayment rate” threshold calculation to provide an ED-prepared warning to current and prospective students and to include the warning on its website and in promotional materials and advertisements. The rules also include new provisions related to arbitration and class-action lawsuits, including prohibitions regarding an institution’s use of pre-dispute arbitration agreements and class-action waivers. The Company cannot predict how the ED would interpret and enforce the new borrower defense to repayment rules if they are no longer delayed; however, the new rules could have a material adverse effect on Kaplan’s business and results of operations.

If the proposed transfer of KU is consummated, Kaplan would no longer own or operate KU and would no longer be subject to loan discharge actions as an institution. However, Kaplan would face the risks discussed above in connection with providing services to the new university.

Regulatory Changes Could Have a Material Adverse Effect on Kaplan’s Business and Operations

The implementation of new Title IV and other regulations have required and will require Kaplan to change its practices to comply with new requirements. These changes have increased and will continue to increase its administrative costs and overall risk. Changes to its practices or Kaplan’s inability to comply with the final regulations could have a material adverse effect on Kaplan’s business and results of operations. Moreover, the ED or other U.S. or international regulatory bodies could implement new regulations or amend existing regulations in a manner that could have a material adverse effect on Kaplan’s business and results of operations.

Changes to the Regulations Regarding Incentive Compensation Make It Difficult for Kaplan to Attract Students and Retain Qualified Personnel and Add Compliance Risk

Under the incentive compensation rule, an institution participating in the Title IV programs may not provide any commission, bonus or other incentive payment to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV funds if such payment is based directly or indirectly on success in securing enrollments or financial aid. On July 1, 2011, regulations went into effect that amended the incentive compensation rule by reducing the scope of permissible payments under the rule and expanding the scope of payments and employees subject to the rule. KHE modified some of its compensation practices as a result of the revisions to the incentive compensation rule. Due to a lack of clear guidance from the ED, there is no assurance that these modifications will in all cases be found to be in compliance with the ED’s interpretation of the regulations.

Additionally, these changes to compensation arrangements make it difficult to attract students and to provide adequate incentives to promote superior job performance and retain qualified personnel. The Company believes that this change in Kaplan’s approach to recruiting has adversely impacted, and will continue to adversely impact, Kaplan’s enrollment rates, operating costs, business and results of operations. The Company cannot predict how the ED will interpret and enforce all aspects of the revised incentive compensation rule in the future, and any changes in this regard could have a material adverse effect on Kaplan’s business and results of operations.

ED Rules Regarding Gainful Employment Have Had and Could Continue to Have a Material Adverse Effect on Kaplan’s Business and Operations

Under the Higher Education Act, certain education programs, including all programs offered by KU, are required to lead to gainful employment in a recognized occupation in order to be eligible to participate in the Title IV programs. The ED has defined the phrase “gainful employment” to mean employment with earnings high enough to meet specific student debt-to-income ratios. The ED tied an education program’s Title IV eligibility to whether the program meets that definition. These regulations are known as the “gainful employment” rules or “GE” rules. Under these regulations, the ED calculates two debt-to-earnings rates for each program subject to the GE regulations: an annual debt-to-earnings rate and a discretionary debt-to-earnings rate. Under the debt-to-earnings rates for Kaplan’s programs that were released in January 2017 for the 2014–2015 award year, which are the first rates to be issued under the GE rules, none of KU’s active programs currently accepting students failed the GE test. KU has five other programs that failed the GE test. Of these five programs, two have been discontinued, have no students and are no longer being offered, and the remaining three are not currently accepting enrollments. KU also has 16 programs in the warning zone status. Four of these programs are active and currently accepting students. These four programs accounted for approximately $51.1 million and $44.5 million in revenue for 2016 and for 2017, respectively. Of the remaining 12 programs in the warning zone, five have been discontinued, have no students and are no longer being offered, and seven of these programs are active but not currently accepting enrollments. The ED has stated that it has the ability to combine, for future GE debt-to-earnings calculations, any new programs that it determines to be “substantially similar” to other current or past programs. KU started a number of new programs after the effective date of the GE rules. If the ED determines that these new programs are substantially similar and combines the new programs with programs that are currently in the warning zone or that failed the GE test, eligibility of the new programs to participate in Title IV programs and revenues from such programs would be materially adversely affected.

The GE rules allow for an appeal of these rates if the institution can provide alternative earnings data for each appealed program showing an improvement in the GE rates and moving the program from fail to warning zone or from warning zone to pass. KU has appealed the rates for the 16 programs in the warning zone, including the four programs that are active and currently accepting students and the remaining 12 programs that are discontinued and/or not accepting students. Although none of the five failing programs is active and accepting students, KU has appealed their rates as well. KU cannot predict the outcome of these appeals.

The ultimate outcome of future GE rates and their impact on Kaplan's operations cannot be predicted. The GE rules have caused Kaplan to eliminate or limit enrollments in certain educational programs at some of its schools; may result in the loss of student access to Title IV programs; and has had and may continue to have a material adverse effect on KHE's revenues, operating income and cash flows.

The regulations also contain requirements related to public disclosure of program information and outcomes, reporting data to the ED, including the debt-to-earnings rates, and certification requirements. On October 9, 2015, KU received a letter from the ED indicating that it had failed to report data on a significant number of programs that were listed as active in the ED's system. The letter stated that until this issue is resolved, KU cannot start any new programs, and failure to resolve the issue could result in administrative actions. There is no assurance that the ED will accept Kaplan's corrected data, will not find additional issues or will not take further action against KU.

On June 15, 2017, the ED announced its intent to convene a negotiated rulemaking committee to develop proposed regulations to revise the gainful employment regulations. The committee convened in December 2017, will continue to meet in early 2018 and may issue proposed regulations for public comment during the first half of 2018, but the ED has not established a final schedule for publication of proposed or final regulations. Any regulations published in final form by November 1, 2018, typically would take effect in July 1, 2019, but we cannot provide any assurances as to the timing or content of any such regulations.

On June 30, 2017, the ED announced the extension of the compliance date for certain gainful employment disclosure requirements from July 1, 2017, to July 1, 2018. The ED stated that institutions were still required to comply with other gainful employment disclosure requirements by July 1, 2017. On August 18, 2017, the ED announced in the Federal Register new deadlines for submitting notices of intent to file alternate earnings appeals of gainful employment rates and for submitting alternate earnings appeals of those rates. The deadline to file a notice of intent to file an appeal was October 6, 2017, and the deadline to file the alternate earnings appeal was February 1, 2018. The ED has not announced a delay or suspension in the enforcement of any other gainful employment regulations. However, on August 8, 2017, ED officials announced that the ED did not have a timetable for the issuance of lists of students who completed programs, which is the first step toward generating the data for calculating new gainful employment rates. Consequently, we cannot predict when the ED will begin the process of calculating and issuing new draft or final gainful employment rates in the future. We also cannot predict whether the initiation of gainful employment rulemaking or the extension of certain gainful employment deadlines may result in the ED delaying the issuance of new draft or final gainful employment rates in the future.

Congressional Examination of For-Profit Education and Other Governmental Scrutiny by the ED and Other Federal and State Regulators Could Lead to Legislation or Other Governmental Action That May Materially and Adversely Affect Kaplan's Business and Operations

There has been increased attention by Congress on the role that for-profit educational institutions play in higher education, including their participation in Title IV programs and tuition assistance programs for military service members attending for-profit colleges. Beginning in June 2010, the HELP Committee held a series of hearings to examine the for-profit education sector and requested information from various for-profit institutions, including KHE institutions. In July 2012, the majority staff of the HELP Committee issued a final report to conclude the review. The final report included observations and recommendations for Federal policy.

Other committees of Congress have also held hearings to look into, among other things, the standards and procedures of accrediting agencies, credit hours and program length and the portion of U.S. Federal student financial aid going to for-profit institutions. Several legislators have requested the U.S. Government Accountability Office to review and make recommendations regarding, among other things, student recruitment practices; educational quality; student outcomes; the sufficiency of integrity safeguards against waste, fraud and abuse in Title IV programs; and the percentage of proprietary institutions' revenue coming from Title IV and other U.S. Federal funding sources. Congress is expected to consider reauthorization of the Higher Education Act in 2018, but the Company cannot predict if or when this process will be completed. This increased activity, and other current and future activity, may result in legislation, further rulemaking and other governmental actions affecting Kaplan's participation in Title IV programs or the amount of student financial assistance for which Kaplan's students are eligible. In addition, concerns generated by congressional or other activity, or negative media reports, may adversely affect enrollment in for-profit educational institutions.

The increased scrutiny of for-profit schools also has resulted in additional enforcement actions, investigations and lawsuits by the ED, other federal agencies, state Attorneys General and state licensing agencies. These actions and allegations have attracted significant negative media coverage. Recent enforcement actions have resulted in institutions being required to post substantial letters of credit, liabilities, restrictions and sanctions and, in some cases, have led to the loss of Title IV eligibility and closure of institutions. Allegations and enforcement actions against the overall postsecondary education sectors may impact general public perceptions of private-sector educational institutions, including Kaplan, in a negative manner. Negative media coverage regarding other educational institutions or regarding Kaplan directly could damage Kaplan's reputation, reduce student demand for Kaplan programs or lead to increased regulatory scrutiny and could negatively impact Kaplan's operating results.

The Company cannot predict the extent to which these activities could result in further investigations, legislation or rulemaking affecting its participation in Title IV programs, other governmental actions and/or actions by state agencies or legislators or by accreditors. If any laws or regulations are adopted that significantly limit Kaplan's participation in Title IV programs or the amount of student financial aid for which Kaplan's students are eligible, Kaplan's results of operations and cash flows would be adversely and materially impacted.

Student Loan Defaults Could Result in Loss of Eligibility to Participate in Title IV Programs

A school may lose its eligibility to participate in Title IV programs if student defaults on the repayment of Title IV loans exceed specified rates, referred to as "cohort default rates." The ED calculates a cohort default rate for each OPEID number. KU has one OPEID number. The schools in an OPEID number whose cohort default rate exceeds 40% for any single year lose their eligibility to participate in the Direct Loan programs for at least two fiscal years, effective 30 days after notification from the ED. The schools in an OPEID number whose cohort default rate equals or exceeds 30% for three consecutive years lose their Title IV eligibility to participate in the Direct Loan and U.S. Federal Pell Grant programs effective 30 days after notification from the ED and for at least two fiscal years. The schools in an OPEID number whose cohort default rate equals or exceeds 30% in two of the three most recent fiscal years for which rates have been issued by the ED may be placed on provisional certification by the ED and could be required by the ED to submit a letter of credit under the borrower defense to repayment regulations. The loss of Title IV eligibility by KU due to cohort default rates that exceed specified rates would have a material adverse effect on Kaplan's operating results.

Title IV Revenues in Excess of U.S. Federally Set Percentage Could Lead to Loss of Eligibility to Participate in Title IV Programs

Under regulations referred to as the 90/10 rule, an institution could lose its eligibility to participate in Title IV programs if it derives more than 90% of its receipts from Title IV programs, as calculated on a cash basis in accordance with the Higher Education Act and applicable ED regulations, in each of two consecutive fiscal years. Any institution with Title IV receipts exceeding 90% for a single fiscal year would be placed on provisional certification and may be subject to other enforcement measures, including a potential requirement to submit to the ED a letter of credit under the borrower defense to repayment regulations that were to take effect on July 1, 2017, but were subsequently delayed. The enactment of the U.S. Federal Ensuring Continued Access to Student Loans Act of 2008 increased student loan limits and the maximum amount of Pell Grants, which resulted in an increase in the percentage of KU's receipts from Title IV programs. These increases, and any future increases or changes in the 90/10 calculation formula or any ED interpretation of what revenue may be included in the calculation, would make it more difficult for institutions to comply with the 90/10 rule. Kaplan has taken steps to ensure that revenue from programs acquired by KU is eligible to be counted in that campus's 90/10 calculation. However, there can be no guarantee that the ED will not challenge the inclusion of revenue from any acquired program in KU's 90/10 calculations or will not issue an interpretation of the 90/10 rule that would exclude such revenue from the calculation. There can be no guarantee that these measures will be adequate to prevent the 90/10 ratio at KU from exceeding 90% in the future.

In addition, certain legislators have proposed amendments to the Higher Education Act that would lower the threshold percentage in the 90/10 rule to 85%, treat non-Title IV federal funds as Title IV funds in the 90/10 calculation and make other refinements to the calculation. If these proposals or similar laws or regulations are adopted, they would make it more difficult for KU to comply with the 90/10 rule.

The loss of Title IV eligibility by KU due to a violation of the 90/10 rule would have a material adverse effect on Kaplan's operating results.

If the transfer of KU is consummated, Kaplan would no longer own or operate a Title IV-eligible institution but would be required to report its 90/10 percentages in the first fiscal year following approval of the transfer and submit a 90/10 audit for the fiscal year ending December 31, 2017, by June 30, 2018. Assuming that the transaction is consummated, that KU has a passing 90/10 audit and that the ED imposes no further requirements on the new university related to the 90/10 rule, then we expect that the new university would no longer be required to comply with the 90/10 rule.

Failure to Maintain Institutional Accreditation Could Lead to Loss of Ability to Participate in Title IV Programs

KU's online university and all of its ground campuses are institutionally accredited by a regional accreditor recognized by the ED. Accreditation by an accrediting agency recognized by the ED is required for an institution to become and remain eligible to participate in Title IV programs. KU's institutional accreditor conducts reviews from time to time for a variety of reasons. Failure to resolve any concerns that may arise during such reviews could result in a loss of accreditation at the school. The loss of accreditation would, among other things, render the affected school and programs ineligible to participate in Title IV programs and would have a material adverse effect on Kaplan's business and operations.

Failure to Maintain Programmatic Accreditation Could Lead to Loss of Ability to Provide Certain Education Programs and Failure to Obtain Programmatic Accreditation May Lead to Declines in Enrollments in Unaccredited Programs

Programmatic accreditation is the process through which specific programs are reviewed and approved by industry-specific and program-specific accrediting entities. Although programmatic accreditation is not generally necessary for Title IV eligibility, such accreditation may be required to allow students to sit for certain licensure exams or to work in a particular profession or career. Failure to obtain or maintain such programmatic accreditation may lead schools to discontinue programs that would not provide appropriate outcomes without that accreditation or may lead to a decline in enrollments in programs because of a perceived or real reduction in program value.

Failure to Maintain State Authorizations Could Cause Loss of Ability to Operate and to Participate in Title IV Programs in Some States

Kaplan's institutions and programs are subject to state-level regulation and oversight by state licensing agencies, whose approval is necessary to allow an institution to operate and grant degrees or diplomas in the state. Institutions that participate in Title IV programs must be legally authorized to operate in the state in which the institution is physically located. The loss of such authorization would preclude the institution from offering postsecondary education and render students ineligible to participate in Title IV programs. Loss of authorization at campus locations or, in states that require it, for KU's online programs would have a material adverse effect on KU's business and operations.

Some states have sought to assert jurisdiction over online education institutions that offer education services to residents in the state or to institutions that advertise or recruit in the state, notwithstanding the lack of a physical location in the state. State regulatory requirements for online education vary among the states, are not well developed in many states, are imprecise or unclear in some states and are subject to change. If KU is found not to be in compliance with an applicable state regulation and a state seeks to restrict one or more of KU's business activities within its boundaries, KU may not be able to recruit or enroll students in that state and may have to cease providing services and recruiting in that state.

ED regulations that went into effect on July 1, 2011, expanded the requirements for an institution to be considered legally authorized in the state in which it is physically located for Title IV purposes. In some cases, the regulations require states to revise their current requirements and/or to license schools in order for institutions to be deemed legally authorized in those states and, in turn, to participate in the Title IV programs. If the states do not amend their requirements where necessary and if schools do not receive approvals where necessary that comply with these requirements, the institution could be deemed to lack the state authorization necessary to participate in the Title IV programs, which would have a material adverse effect on Kaplan's business and operations.

On December 19, 2016, the ED issued final regulations regarding distance-education state authorization requirements that would require KU to be authorized in additional states, as well as regulations applicable to institutions with Title IV participating locations in a foreign country. Specifically, the regulations will require an institution that offers postsecondary education through distance education in a state in which the institution is not physically located, or in which the state determines that the institution is otherwise subject to the state's jurisdiction, to meet the state's authorization requirements for offering postsecondary distance education in that state. The regulations also will require the institution to document that there is a state process for review and appropriate action on complaints from enrolled students in each such state. In addition, the regulations will require the institution to provide public disclosures regarding various matters relating to its state authorization and to provide individualized disclosures to each prospective student regarding certain matters, including whether the student's program does not meet licensure or certification prerequisites in the state in which the student resides. The regulations in certain circumstances consider an institution to be authorized in states that participate in a state authorization reciprocity agreement that covers the institution. The regulations are not scheduled to take effect until July 1, 2018. If Kaplan is unable to obtain the required approvals for distance-education programs by the effective date of the new regulations, then Kaplan students residing in the state for which approval was not obtained may be unable to receive Title IV funds, which could have a material adverse effect on Kaplan's business and operations. Additionally, these rules may impact Concord's ability to enroll students into its Juris Doctor program outside of California.

Failure to Correctly Calculate or Timely Return Title IV Funds for Students Who Withdraw Prior to Completing Programs Could Result in a Requirement to Post a Letter of Credit or Other Sanctions

ED regulations require schools participating in Title IV programs to calculate correctly and return on a timely basis unearned Title IV funds disbursed to students who withdraw from a program of study prior to completion. These funds must be returned in a timely manner, generally within 45 days of the date the school determines that the student has withdrawn. Under ED regulations, failure to make timely returns of Title IV program funds for 5% or more of students sampled in a school's annual compliance audit, or in a program review or OIG audit, could result in a requirement that the school post a letter of credit in an amount equal to 25% of its prior-year returns of Title IV program funds. If unearned funds are not properly calculated and returned in a timely manner, an institution may be subject to monetary liabilities, fines or other sanctions by the ED, including restrictions on its participation as a third-party servicer, that could have a material adverse effect on Kaplan's results of operations.

Kaplan recently determined that a procedural change that was implemented with respect to student financial aid refunds may not have been in accordance with the regulation governing return of financial aid for students who withdraw from a program prior to completion. Consequently, $8.4 million in estimated unreturned funds from prior periods was recorded in Kaplan's fourth quarter 2017 results; this estimated refund liability is included in current liabilities on the Company's consolidated balance sheet at December 31, 2017. No restatement of prior period financial statements and no change in previously reported financial results was required due to the immateriality of the adjustment for the periods presented. Kaplan has self-reported this matter to the ED.

If the transfer of KU is consummated, Kaplan would no longer own or operate KU, however, Kaplan would face the risks discussed above in connection with providing services to the new university. In addition, as a third-party servicer, Kaplan will be responsible for certain aspects of financial aid administration and could face adverse actions by the ED and potential claims under Kaplan's service agreement with the new university if it fails to correctly calculate or timely return funds on behalf of the new university.

Failure to Demonstrate Financial Responsibility Could Result in a Requirement to Submit Letters of Credit to the ED, Loss of Eligibility to Participate in Title IV Programs or Other Sanctions

An institution participating in Title IV programs must maintain a certain level of financial responsibility as determined under the Higher Education Act and under ED regulations. The ED measures an institution's financial responsibility by compiling a composite score, ranging from -0.1 to 3.0, pursuant to a formula that incorporates various financial data from annual financial statements submitted to the ED. An institution with a composite score of 1.5 or higher passes the composite test. An institution with a composite score of at least 1.0 and less than 1.5 is in the warning zone. If an institution's composite score is in the warning zone and the institution complies with other financial responsibility standards, the ED typically permits the institution to continue participating in the Title IV programs under certain conditions, including imposing certain monitoring and reporting requirements, placing the institution on provisional certification and transferring the institution from the advance system of Title

IV payment to a heightened cash-monitoring or reimbursement system of payment. An institution fails the composite score test with a score of less than 1.0. The ED may permit such institutions to continue participating in the Title IV programs under the aforementioned conditions and potentially other conditions, as well as a requirement to submit to the ED a letter of credit in an amount equal to at least 10% of the annual Title IV program funds received by the institution during its most recently completed fiscal year, although the ED could require a letter of credit based on a higher percentage of the institution's annual Title IV program funds. The borrower defense to repayment regulations that were to take effect on July 1, 2017, but were subsequently delayed, expand the list of circumstances that could require an institution to provide the ED with a letter of credit or other form of acceptable financial protection. Moreover, the delayed borrower defense to repayment regulations may increase the required minimum letter of credit amount beyond 10% of annual Title IV funds to include additional amounts that the ED determines are needed to fully cover any estimated potential losses. If an institution is unable to submit a required letter of credit or to comply with ED imposed conditions, the institution could be subject to loss of Title IV eligibility, financial penalties and other conditions or sanctions. For the 2017 fiscal year, KU expects to have a composite score of 1.9, based on its own assessment using ED methodology. However, the ED will make its own determination once it receives and reviews KU's audited financial statements for the 2017 fiscal year.

If KU fails to meet the composite score standard or any of the other financial responsibility standards, it may be required to post a letter of credit in favor of the ED and possibly may be subject to other sanctions, including limitation or termination of its participation in Title IV programs. A requirement to post a letter of credit or the imposition of any one or more other sanctions by the ED could have a material adverse effect on Kaplan's results of operations.

Failure to Demonstrate Administrative Capability Could Result in Loss of Eligibility to Participate in Title IV Programs or Other Sanctions

ED regulations specify extensive criteria that an institution must satisfy to establish that it has the required "administrative capability" to participate in Title IV programs. These criteria include, but are not limited to, requirements relating to the institution's compliance with all applicable Title IV requirements; the institution's administration of Title IV programs; the institution's compliance with certain reporting, disclosure and record-keeping obligations; and the institution's ability to maintain cohort default rates below prescribed thresholds. Failure to comply with these criteria could result in the loss or limitation of the eligibility of KU to participate in the Title IV programs, a requirement to pay fines or to repay Title IV program funds, a denial or refusal by the ED to consider a school's application for renewal of its certification to participate in the Title IV programs, civil or criminal penalties or other sanctions. Any one or more of these actions by the ED could have a material adverse effect on Kaplan’s results of operations.

Failure to Obtain Regulatory Approval of Transactions Involving a Change of Control May Result in the Loss of the Ability to Operate Schools or to Participate in U.S. Federal Student Financial Aid Programs

If KU experiences a change of control under the standards of applicable state agencies, accrediting agencies or the ED, it must seek the approval of the relevant agencies. An institution that undergoes a change of control, which may include a change of control of the institution’s parent corporation or other owners, must be reviewed and recertified by the ED and obtain approvals from certain state agencies and accrediting bodies, in some cases prior to the change of control. The failure of KU to reestablish its state authorization, accreditation or ED certification following a change of control as defined by the applicable agency could result in a suspension of operating authority or suspension or loss of U.S. Federal student financial aid funding, which could have a material adverse effect on KU’s student population and revenue. As discussed above, the potential transfer of KU is subject to regulatory approval by the ED, HLC and certain other education agencies.

Changes in the Extent to Which Standardized Tests Are Used in the Admissions Process by Colleges or Graduate Schools Could Reduce Demand for KTP Offerings

A substantial portion of Kaplan’s revenue is generated by KTP. The source of this income is fees charged for courses that prepare students for a broad range of admissions examinations that are required for admission to colleges and graduate schools. Historically, colleges and graduate schools have required standardized tests as part of the admissions process. There has been some movement away from this historical reliance on standardized admissions tests among a small number of colleges that have adopted “test-optional” admissions policies. Any significant reduction in the use of standardized tests in the college or graduate school admissions process could have an adverse effect on Kaplan’s operating results.

Changes in the Extent to Which Licensing and Proficiency Examinations Are Used to Qualify Individuals to Pursue Certain Careers Could Reduce Demand for Kaplan Offerings

A substantial portion of PACE and Kaplan International’s revenue comes from preparing individuals for licensing or technical proficiency examinations in various fields. Any significant relaxation or elimination of licensing or technical proficiency requirements in those fields served by PACE and Kaplan International’s businesses could negatively impact Kaplan’s operating results.

Difficulties of Managing Foreign Operations Could Negatively Affect Kaplan’s Business

Kaplan has operations and investments in a growing number of foreign countries, including Australia, Canada, China, Colombia, France, Hong Kong, India, Ireland, Japan, New Zealand, Nigeria, Singapore, the U.K. and Venezuela. Kaplan also conducts business in the Middle East. Operating in foreign countries presents a number of inherent risks, including the difficulties of complying with unfamiliar laws and regulations, effectively managing and staffing foreign operations, successfully navigating local customs and practices, preparing for potential political and economic instability and adapting to currency exchange rate fluctuations. Failure to effectively manage these risks could have a material adverse effect on Kaplan’s operating results.

Changes in International Regulatory and Physical Environments and Failure to Comply With Regulations Applicable to International Operations Could Negatively Affect International Student Enrollments and Kaplan’s Business

Any significant changes to the regulatory environment, or other factors, including geopolitical instability, imposition of international sanctions or a natural disaster or pandemic in either the students’ countries of origin or countries in which they desire to study, could negatively affect Kaplan’s ability to attract and retain students and negatively affect Kaplan’s operating results. In addition, any significant changes to the tax environment in a country in which KI operates could negatively affect its operating results.

Kaplan is subject to a wide range of regulations relating to its international operations. These include domestic laws with extra-territorial reach, such as the U.S. Foreign Corrupt Practices Act; international laws, such as the U.K. Bribery Act; as well as the local regulatory regimes of the countries in which Kaplan operates. These regulations change frequently. Compliance with these regulations requires utmost vigilance. Failure to comply can result in the imposition of significant penalties or revocation of Kaplan's authority to operate in the applicable jurisdiction, each of which could have a material adverse effect on Kaplan's operating results.

Kaplan International's operations, institutions and programs in the United States may be subject to state-level regulation and oversight by state regulatory agencies, whose approval or exemption from approval is necessary to allow an institution to operate in the state. These agencies may establish standards for instruction, qualifications of faculty, location and nature of facilities, financial policies and responsibility, and other operational matters. Institutions that seek to admit international students are required to be federally certified and legally authorized to operate in the state in which the institution is physically located in order to be allowed to issue the relevant documentation to permit international students to obtain a visa.

A substantial portion of Kaplan International's revenue comes from programs that prepare international students to study and travel in English-speaking countries, principally the U.S., the U.K., Australia and Singapore. Kaplan International's ability to enroll students in these programs is directly dependent on its ability to comply with complex regulatory environments. For example, on June 23, 2016, the U.K. held a referendum in which voters approved a proposal that the U.K. leave the EU, commonly referred to as "Brexit." The impact on Kaplan International from Brexit will depend, in part, on the outcome of future negotiations regarding the terms of the U.K.'s withdrawal from the EU, possibly including any transition period. The timing of the negotiations and their impact on recruitment of international students is uncertain. The outcome may disrupt the free movement of students and employees. It is possible that EU nationals' ability to enter the U.K. for long- or short-term study will change or that changes in laws affecting EU nationals could also apply to international students presently covered by the Tier 4 (KI Pathways) or student visitor visa regime (KI English). It is also unclear how international student recruitment agents and prospective international students will view the U.K. as a study destination after the EU exit negotiations and the U.K.'s eventual departure from the EU. If the U.K. exit from the EU and related perceptions of the U.K. as a study destination have a significant negative impact on Kaplan's ability to recruit international students, Kaplan's results of operations and cash flows could be materially and adversely impacted.

On January 27, 2017, President Trump signed an executive order barring citizens from Syria, Iraq, Iran, Yemen, Libya, Somalia, and Sudan from entering the U.S. for a certain period of time. In December 2017, the U.S. Supreme Court permitted a modified version of the order to become effective with respect to citizens of Chad, Iran, Libya, Somalia, Syria and Yemen, together with North Korea and certain nationals from Venezuela. This order has been the subject of significant international press interest. Negative perceptions regarding travel to the U.S. could have a significant negative impact on

Kaplan’s ability to recruit international students, and Kaplan’s business could be adversely and materially impacted.

In December 2017, the Australian government established a Royal Commission into Misconduct in the Banking Superannuation and Financial Services Industry. The Commission is expected to issue an interim report by September 30, 2018, and a final report by February 2019. This could impact the Kaplan Professional business in Australia as local financial services firms will devote resources and funds to responding to the Commission, diverting resources from training programs and other discretionary spending. The Commission could further make recommendations concerning new laws and regulatory requirements across the affected industries, which would further increase the compliance burden on affected firms and thus impact spending on training.

System Disruptions and Security Threats to the Company’s Information Technology Infrastructure Could Have a Material Adverse Effect on Its Businesses

Kaplan’s reputation and ability to attract and retain students is highly dependent on the performance and reliability of its information technology platforms with respect to its online and campus-based education offerings. Kaplan’s delivery of these programs could be negatively affected due to events beyond its control, including natural disasters and network and telecommunications failures. Any such computer system error or failure could result in a significant outage that materially disrupts Kaplan’s online and on-ground operations and could have a material adverse effect on Kaplan’s business.

The Company’s computer networks may also be vulnerable to unauthorized access, computer hackers, computer viruses and other security threats. Despite the Company’s efforts to prevent security breaches, including unauthorized access to student and patient data, personally identifiable information and information of certain counterparties that share information with the Company, its systems may still be vulnerable to these threats. A user who circumvents security measures could misappropriate proprietary information or information of certain counterparties that share information with the Company, or cause disruptions or malfunctions in operations. To the extent such vulnerabilities require remediation, such remedial measures could require significant resources and may not be implemented before such vulnerabilities are exploited. As the cybersecurity landscape evolves, we may also find it necessary to make significant further investments to protect data and infrastructure. Any of these events could have a material adverse effect on the Company’s business and results of operations.

Failure to Successfully Assimilate Acquired Businesses Could Negatively Affect the Company’s Business

The Company’s Kaplan subsidiary has historically been an active acquirer of businesses that provide educational services. Kaplan completed two acquisitions in 2017 and expects to continue to acquire businesses from time to time, as do the

Company and its other subsidiaries. Acquisitions involve various inherent risks and uncertainties, including difficulties in efficiently integrating the service offerings, accounting and other administrative systems of an acquired business; the challenges of assimilating and retaining key personnel; the consequences of diverting the attention of senior management from existing operations; the possibility that an acquired business does not meet or exceed the financial projections that supported the purchase price; and the possible failure of the due diligence process to identify significant business risks or undisclosed liabilities associated with the acquired business. A failure to effectively manage growth and integrate acquired businesses could have a material adverse effect on the Company's operating results.

Changing Perceptions About the Effectiveness of Television Broadcasting in Delivering Advertising May Adversely Affect the Profitability of Television Broadcasting

Historically, television broadcasting has been viewed as a cost-effective method of delivering various forms of advertising. There can be no guarantee that this historical perception will guide future decisions by advertisers. To the extent that advertisers shift advertising expenditures away from television to other media outlets, the profitability of the Company's television broadcasting business could be adversely affected.

Increased Competition Resulting From Technological Innovations in News, Information and Video Programming Distribution Systems and Changing Consumer Behavior Could Adversely Affect the Company's Operating Results

The continuing growth and technological expansion of Internet-based services has increased competitive pressure on the Company's media businesses. Examples of such developments include online delivery of programming, technologies that enable users to fast-forward or skip advertisements and devices that allow users to consume content on demand and in remote locations, while avoiding traditional commercial advertisements or subscription payments. Changing consumer behavior may also put pressure on the Company's media businesses to change traditional distribution methods. Anticipating and adapting to changes in technology and consumer behavior on a timely basis will affect the Company's media businesses' ability to continue to increase their revenue. The development and deployment of new technologies and changing consumer behavior have the potential to negatively and significantly affect the Company's media businesses in ways that cannot now be reliably predicted and that may have a material adverse effect on the Company's operating results.

Changes in the Nature and Extent of Government Regulations Could Adversely Affect the Company's Television Broadcasting Business and Other Businesses

The Company's television broadcasting business operates in a highly regulated environment. Complying with applicable regulations has significantly increased, and may continue to increase, the costs and has reduced the revenues of the business. Changes in regulations have the potential to negatively impact the television broadcasting business, not only by increasing compliance costs and reducing revenues through restrictions on certain types of advertising, limitations on pricing flexibility or other means, but also by possibly creating more favorable regulatory environments for the providers of competing services. In addition, changes to the FCC's rules governing broadcast ownership may affect the Company's ability to expand its television broadcasting business and/or may enable the Company's competitors to improve their market positions through consolidation. More generally, all of the Company's businesses could have their profitability or their competitive positions adversely affected by significant changes in applicable regulations.

Transition to the New Technical Standard for Broadcast Television Stations May Alter the Competitive Environment in the Company's Stations' Markets or Cause the Company to Incur Increased Costs

The Company cannot predict how the market will react to the new broadcast television station technical standard, ATSC 3.0, as voluntary transition to the new standard has only recently been approved. ATSC 3.0-capable consumer devices are not yet widely available in the United States, and stations have not yet begun to transition. Competing stations that transition to ATSC 3.0 may increase competition for the Company's stations and/or create competitive pressure for the Company's stations to launch ATSC 3.0 streams. Any transition to ATSC 3.0 may cause the Company to incur substantial costs. In the event the Company transitions any or all of its stations to ATSC 3.0, there can be no guarantee that the Company would successfully earn sufficient additional revenues to offset such costs. More generally, the deployment of ATSC 3.0 may have other material effects on the Company's media businesses that cannot now be reliably predicted and that may have a material adverse effect on the Company's operating results.

Potential Liability for Intellectual Property Infringement Could Adversely Affect the Company's Businesses

The Company periodically receives claims from third parties alleging that the Company's businesses infringe on the intellectual property rights of others. It is likely that the Company will continue to be subject to similar claims, particularly as they relate to its media businesses. Other parts of the Company's business could also be subject to such claims. Addressing intellectual product claims is a time-consuming and expensive endeavor, regardless of the merits of the claims. In order to resolve such claims, the Company may have to change its method of doing business, enter into licensing agreements or incur substantial monetary liability. It is also possible that one of the Company's businesses could be enjoined from using the intellectual property at issue, causing it to significantly alter its operations. Although the Company cannot predict the impact at this time, if any such claim is successful, the outcome would likely affect the business utilizing the intellectual property at issue and could have a material adverse effect on that business's operating results or prospects.

Failure to Comply With Privacy Laws or Regulations Could Have an Adverse Effect on the Company's Business

Various federal, state and international laws and regulations govern the collection, use, retention, sharing and security of consumer data. This area of the law is evolving, and interpretations of applicable laws and regulations differ. Legislative activity in the privacy area may result in new laws that are relevant to the Company's operations, for example, use of consumer data for marketing or advertising and new general data privacy regulations adopted by the European Union known as the General Data Protection Regulation (GDPR), which goes into effect in May 2018. The GDPR is expected to impose a significant compliance burden on many companies with operations in the EU, and it includes fines of up to 20 million euros or up to 4% of the annual global revenues of the infringer for failures to comply. Complying with the enhanced obligations imposed by the GDPR has resulted in additional costs to the Company's business and required the Company to amend certain of its business practices. Claims of failure to comply with the Company's privacy policies or applicable laws or regulations could form the basis of governmental or private-party actions against the Company and could result in significant penalties. Such claims and actions could cause damage to the Company's reputation and could have an adverse effect on the Company's business.

Extensive Regulation of the Healthcare Industry Could Adversely Affect the Company's Healthcare Businesses and Results of Operations

The home health and hospice industries are subject to extensive federal, state and local laws, with regulations affecting a wide range of matters, including licensure and certification, quality of services, qualifications of personnel, confidentiality and security of medical records, relationships with physicians and other referral sources, operating policies and procedures, and billing and coding practices. These laws and regulations change frequently, and the manner in which they will be interpreted is subject to change in ways that may not be predicted. For example, on January 13, 2018, extensive revisions to the Medicare rules governing home health agency operations, the Medicare Home Health Conditions of Participation, became effective, the impact of which, particularly on licensure and clinical operations, is still uncertain. In addition, there remains significant uncertainty regarding the future of the Patient Protection and Affordable Care Act of 2010, as well as other regulations affecting the home health and hospice industries.

Reimbursement for services by third-party payers, including Medicare, Medicaid and private health insurance providers, continues to decline, while authorization, audit and compliance requirements continue to add to the cost of providing those services. In 2017, an anticipated extensive overhaul of Medicare reimbursement for the home health benefit was delayed, but is likely to be revisited in the future.

Managed-care organizations, hospitals, physician practices and other third-party payers continue to consolidate in response to the evolving regulatory environment, thereby enhancing their ability to influence the delivery of healthcare services and decreasing the number of organizations serving patients. This consolidation could adversely impact Graham Healthcare Group's businesses if they are unable to maintain their ability to participate in established networks. Changes in existing laws or regulations, in their interpretation and enforcement and the enactment of new laws or regulations could have a material adverse effect on the Company's healthcare businesses' operations.

Failure to Comply With Environmental, Health, Safety and Other Laws Applicable to The Company's Manufacturing Operations Could Negatively Impact the Company's Business

The Company's manufacturing operations are subject to extensive federal, state and local laws and regulations relating to the environment, as well as health and workplace safety, including those set forth by the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency and state and local regulatory authorities in the U.S. and by similar government agencies in Mexico. Such laws and regulations affect manufacturing operations and require compliance with various environmental registrations, licenses, permits, inspections and other approvals. The Company incurs substantial costs to comply with these regulations and any failure to comply may expose the Company to civil, criminal and administrative fees, fines, penalties and interruptions in operations that could have a material adverse impact on the Company's results of operations, financial position or cash flows.

The Company May Be Subject to Liability Claims That Could Have a Material Adverse Effect on Its Business

The Company's manufacturing operations are subject to hazards inherent in manufacturing and production-related facilities. An accident involving these operations or equipment may result in losses due to personal injury; loss of life; damage or destruction of property, equipment or the environment; or a suspension of operations. Insurance may not protect the Company against liability for certain kinds of events, including events involving pollution, or against losses resulting from business interruption. Any damages caused by the Company's operations that are not covered by insurance, or are in excess of policy limits, could materially adversely affect the Company's result of operations, financial position or cash flows.

Changes in Business Conditions May Cause Goodwill and Other Intangible Assets to Become Impaired

Goodwill generally represents the purchase price paid in excess of the fair value of net tangible and intangible assets acquired in a business combination. Goodwill is not amortized and remains on the Company's balance sheet indefinitely unless there is an impairment or a sale of a portion of the business. Goodwill is subject to an impairment test on an annual basis and when circumstances indicate that an impairment is more likely than not. Such circumstances include an adverse change in the business climate for one of the Company's businesses or a decision to dispose of a business or a significant portion of a business. The Company's businesses each face uncertainty in their business environment due to a variety of factors. The Company may experience unforeseen circumstances that adversely affect the value of the Company's goodwill or intangible assets and trigger an evaluation of the amount of the recorded goodwill and intangible assets. Future write-offs of goodwill or other intangible assets as a result of an impairment in the business could adversely affect the Company's results of operations and financial condition.

The Spin-Off of Cable ONE Could Result in Significant Tax Liability to the Company and Its Stockholders

In connection with the Company's spin-off of Cable ONE, it received a written opinion of counsel to the effect that the distribution of Cable ONE common stock in the spin-off

(Distribution) should qualify for non-recognition of gain and loss under Section 355 of the Internal Revenue Code.

The opinion assumed that the spin-off was completed according to the terms of the transaction documents for the spin-off and relied on the facts as stated in those documents and a number of other documents. The opinion cannot be relied on if any of these assumptions or statements is incorrect, incomplete or inaccurate in any material respect. The opinion of counsel is not binding on the Internal Revenue Service or the courts, and there can be no assurance that the Internal Revenue Service or a court will not take a contrary position.

If the Distribution were determined not to qualify for non-recognition of gain and loss, the Company, its stockholders who received shares of Cable ONE common stock in the Distribution, or both, could be subject to tax. Any such tax liability could be material.