

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM S-8

**REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933**

FIVE9, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

94-3394123
(I.R.S. Employer Identification No.)

**3001 Bishop Drive, Suite 350
San Ramon, California 94583
(925) 201-2000**
(Address of Principal Executive Offices, Including Zip Code)

**2014 Equity Incentive Plan
2014 Employee Stock Purchase Plan**
(Full title of the plan)

**Barry Zwarenstein
Chief Financial Officer
Five9, Inc.
3001 Bishop Drive, Suite 350
San Ramon, CA 94583
(925) 201-2000**
(Name and address of agent for service)
(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

**Registration of Additional Securities
Pursuant to General Instruction E**

This Registration Statement registers 4,399,017 additional shares of common stock of Five9, Inc. (the "Registrant") to be issued pursuant to the 2014 Equity Incentive Plan and the 2014 Employee Stock Purchase Plan. Accordingly, the Registrant incorporates by reference the contents of the Registration Statement on Form S-8 (File No. 333-195037) filed by the Registrant with the Securities and Exchange Commission ("SEC") on April 4, 2014, the Registration Statement on Form S-8 (File No. 333-204145) filed by the Registrant with the SEC on May 13, 2015, the Registration Statement on Form S-8 (File No. 333-209918) filed by the Registrant with the SEC on March 4, 2016, the Registration Statement on Form S-8 (File No. 333-216332) filed by the Registrant with the SEC on February 28, 2017, the Registration Statement on Form S-8 (File No. 333-223362) filed with the SEC on March 1, 2018, the Registration Statement on Form S-8 (File No. 333-229845) filed with the SEC on February 25, 2019, the Registration Statement on Form S-8 (File No. 333-236723) filed with the SEC on February 27, 2020, the Registration Statement on Form S-8 (File No. 333-253672) filed with the SEC on March 1, 2021, the Registration Statement on Form S-8 (File No. 333-236103) filed with the SEC on February 28, 2022, and the Registration Statement on Form S-8 (File No. 333-269999) filed with the SEC on February 24, 2023.

**PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the SEC are incorporated herein by reference:

- (a) the Registrant's Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on February 21, 2024;
- (b) the Registrant's Current Report on Form 8-K filed with the SEC on February 21, 2024 (only Item 8.01) (excluding any information furnished pursuant to Item 2.02 or Item 7.01 on any Current Report on Form 8-K); and
- (c) the description of the Registrant's common stock contained in the Registrant's Registration Statement on Form 8-A (File No. 001-36383) filed with the SEC on March 28, 2014, pursuant to Section 12(b) of the Exchange Act, as updated by the description of the Registrant's common stock contained in Exhibit 4.2 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2019, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant with the SEC pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (excluding any information furnished pursuant to Item 2.02 or Item 7.01 on any current report on Form 8-K) subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, will be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents. Any statement contained in any document incorporated or deemed to be incorporated by reference herein will be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded will not be deemed, except as modified or superseded, to constitute a part of this Registration Statement.

Item 8. Exhibits

Exhibit Number	Description	Filed Herewith
4.1	Amended and Restated Certificate of Incorporation of Five9, Inc. (filed as Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the SEC on April 10, 2014 (File No. 001-36383) and incorporated by reference herein)	
4.2	Amended and Restated Bylaws of Five9, Inc. (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q filed with the SEC on November 2, 2023 (File No. 001-36383) and incorporated by reference herein)	
4.3	Five9, Inc. 2014 Equity Incentive Plan and related form agreements (filed as Exhibit 10.9 to Amendment No.1 to the Company's Registration Statement on Form S-1 filed with the SEC on March 24, 2014 (File No. 333-194258) and incorporated by reference herein)	
4.4	Five9, Inc. 2014 Employee Stock Purchase Plan (filed as Exhibit 10.10 to Amendment No.1 to the Company's Registration Statement on Form S-1 filed with the SEC on March 24, 2014 (File No. 333-194258) and incorporated by reference herein).	
4.5	Five9, Inc. Performance-Based Restricted Stock Unit Grant Notice and Award Agreement - 2014 Equity Incentive Plan (filed as Exhibit 10.19 to the Company's Annual Report on Form 10-K filed with the SEC on February 28, 2022 (File No. 001-36383) and incorporated by reference herein).	
4.6	Form of Five9 Inc. Restricted Stock Unit Grant Notice and Award Agreement - 2014 Equity Incentive Plan (filed as Exhibit 10.20 to the Company's Annual Report on Form 10-K filed with the SEC on February 28, 2022 (File No. 001-36383) and incorporated by reference herein).	
4.7	Form of Five9 Inc. Stock Option Grant Notice and Award Agreement - 2014 Equity Incentive Plan (filed as Exhibit 10.21 to the Company's Annual Report on Form 10-K filed with the SEC on February 28, 2022 (File No. 001-36383) and incorporated by reference herein).	
4.8	Five9, Inc. Form of Performance-Based Restricted Stock Unit Grant Notice and Award Agreement (Revenue Goals) - 2014 Equity Incentive Plan (filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the SEC on July 28, 2022 (File No. 001-36383) and incorporated by reference herein).	
4.9	Five9, Inc. Performance-Based Restricted Stock Unit Grant Notice and Award Agreement for 2023-2025 Performance Period - 2014 Equity Incentive Plan (filed as Exhibit 10.21 to the Company's Annual Report on Form 10-K filed with the SEC on February 24, 2023 (File No. 001-36383) and incorporated by reference herein).	
4.10	Five9, Inc. Performance-Based Restricted Stock Unit Grant Notice and Award Agreement for 2024-2026 Performance Period - 2014 Equity Incentive Plan	
5.1	Opinion of Jones Day	X
23.1	Consent of KPMG LLP, independent registered public accounting firm.	X
23.2	Consent of Jones Day (included in Exhibit 5.1)	X
24.1	Power of Attorney (included on the signature page of this Registration Statement).	X
107*	Filing Fee Table	

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Ramon, State of California, on February 21, 2024.

Five9, Inc.

By: _____ /s/ Michael Burkland
Michael Burkland
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Michael Burkland and Barry Zwarenstein, and each of them, severally, as his or her true and lawful attorneys-in-fact and agents with the power to act, with or without the other, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in his or her capacity as a director or officer or both, as the case may be, of the Company, to sign any and all amendments to this Registration Statement on Form S-8, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Michael Burkland</u> Michael Burkland	Chief Executive Officer, Director (Principal Executive Officer)	February 21, 2024
<u>/s/ Barry Zwarenstein</u> Barry Zwarenstein	Chief Financial Officer (Principal Financial Officer)	February 21, 2024
<u>/s/ Leena Mansharamani</u> Leena Mansharamani	Chief Accounting Officer (Principal Accounting Officer)	February 21, 2024
<u>/s/ Jack Acosta</u> Jack Acosta	Director	February 21, 2024
<u>/s/ Susan Barsamian</u> Susan Barsamian	Director	February 21, 2024
<u>/s/ Michael Burdick</u> Michael Burdick	Director	February 21, 2024
<u>/s/ David DeWalt</u> David DeWalt	Director	February 21, 2024
<u>/s/ Julie Iskow</u> Julie Iskow	Director	February 21, 2024
<u>/s/ Jonathan Mariner</u> Jonathan Mariner	Director	February 21, 2024
<u>/s/ David Welsh</u> David Welsh	Director, Lead Independent Director	February 21, 2024
<u>/s/ Robert Zollars</u> Robert Zollars	Director	February 21, 2024

Calculation of Filing Fee Tables
FORM S-8
Registration Statement Under the Securities Act of 1933
(Form Type)

Five9, Inc.
(Exact Name of Registrant as Specified in its Charter)

Not Applicable
(Translation of Registrant's Name into English)

Table 1: Newly Registered and Carry Forward Securities

Security Type	Title of Securities To Be Registered	Fee Calculation Rule	Amount To Be Registered (1)	Proposed Maximum Offering Price Per Share (\$)	Proposed Maximum Aggregate Offering Price (\$)	Fee Rate	Amount of Registration Fee (\$)	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial Effective Date	Filing Fee Previously Paid In Connection with Unsold Securities to be Carried Forward
Newly Registered Securities											
	Common Stock, \$0.001 par value per share										
Fees to be Paid	Equity	- Reserved for future issuance under the 2014 Equity Incentive Plan	Rules 457(c) and (h) (2)	3,665,848 (4)	\$ 71.08	\$ 260,568,475.84	\$0.0001476	\$ 38,459.91			
Fees to be Paid	Equity	- Reserved for future issuance under the 2014 Employee Stock Purchase Plan	Rules 457(c) and (h) (3)	733,169 (5)	\$ 60.41	\$ 44,290,739.29	\$0.0001476	\$ 6,537.31			
Fees Previously Paid (6)											
Carry Forward Securities											
Carry Forward Securities (7)											
	Total Offering Amounts		4,399,017	N/A	\$ 304,859,215.13		\$ 44,997.22				
	Total Fees Previously Paid (6)							-			
	Total Fee Offsets (8)							-			
	Net Fee Due						\$ 44,997.22				

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of the Registrant’s common stock that become issuable in respect of the securities identified in the above table by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant’s receipt of consideration which results in an increase in the number of the outstanding shares of the Registrant’s common stock.
- (2) Estimated in accordance with Rules 457(c) and (h) under the Securities Act solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Registrant’s common stock as reported on the NASDAQ Global Market on February 20, 2024.
- (3) Estimated in accordance with Rules 457(c) and (h) under the Securities Act solely for the purpose of calculating the registration fee on the basis of 85% of the average of the high and low prices of the Registrant’s common stock as reported on the NASDAQ Global Market on February 20, 2024. Pursuant to the ESPP, the purchase price of a share of common stock is 85% of the fair market value of the Registrant’s common stock.
- (4) Represents shares of common stock that were automatically added to the shares reserved for issuance under the Registrant’s 2014 Equity Incentive Plan (the “2014 Plan”) on January 1, 2024 pursuant to a provision contained in the 2014 Plan. The 2014 Plan provides for an annual automatic increase to the shares reserved for issuance, continuing through January 1, 2025, in an amount equal to 5% of the total number of shares outstanding on December 31st of the preceding calendar year or a lesser number as determined by the Registrant’s Board of Directors.
- (5) Represents shares of common stock that were automatically added to the shares reserved for issuance under the Registrant’s 2014 Employee Stock Purchase Plan (the “ESPP”) on January 1, 2024 pursuant to a provision contained in the ESPP. The ESPP provides for an annual automatic increase to the shares reserved for issuance, continuing through January 1, 2025, by the lesser of (i) 1% of the total number of shares of the Registrant’s common stock outstanding on December 31 of the preceding calendar year; (ii) 1,000,000 shares of common stock (subject to adjustment to reflect any split or combination of the Registrant’s common stock); or (iii) such lesser number as determined by the Registrant’s Board of Directors.
- (6) The Registrant does not have any fees previously paid.
- (7) The Registrant does not have any carry forward securities.
- (8) The Registrant does not have any fee offsets.

Table 2: Fee Offset Claims and Sources*

Registrant or Filer Name	Form or Filing Type	File Number	Initial Filing Date	Filing Date	Fee Offset Claimed	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source
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Rules 457(b) and 0-11(a)(2)

Fee Offset Claims
Fee Offset Sources

Rule 457(p)

Fee Offset Claims
Fee Offset Sources

* Not applicable.

Table 3: Combined Prospectuses*

Security Type	Security Class Title	Amount of Securities Previously Registered	Maximum Aggregate Offering Price of Securities Previously Registered	Form Type	File Number	Initial Effective Date
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* Not applicable.

FIVE9, INC.
PERFORMANCE –BASED RESTRICTED STOCK UNIT GRANT NOTICE
2014 EQUITY INCENTIVE PLAN

Five9, Inc. (the “*Company*”) hereby awards to Participant the number of performance-based restricted stock units (“*PRsUs*”) set forth below (the “*Award*”). The Award is subject to all of the terms and conditions as set forth in this Performance-Based Restricted Stock Unit Grant Notice (the “*Notice*”), the 2014 Equity Incentive Plan (the “*Plan*”) and the Performance-Based Restricted Stock Unit Agreement (the “*Award Agreement*”), both of which are attached hereto and incorporated in their entirety. Capitalized terms not explicitly defined in this Notice but defined in the Plan or the Award Agreement will have the same definitions as in the Plan or the Award Agreement. In the event of any conflict between the terms of the Award and the Plan, the terms of the Plan will control.

Participant: _____
Date of Grant: _____
Performance Period: January 1, 2024 – December 31, 2026
Target Number of PRSUs: _____
Maximum Number of PRSUs: _____

Vesting Schedule:

- (a) Subject to the conditions in paragraph (b) and **Exhibit A** to the Award Agreement, between 0% and 200% of the PRSUs will be earned and vest on the based on the achievement of the Vesting Criteria (as defined in **Exhibit A** to the Award Agreement) approved by the Committee on or before the Date of Grant as set forth on **Exhibit A** to the Award Agreement as follows:
- (i) Up to 1/3 of the Maximum Number of PRSUs will be eligible to vest based on achievement of the Vesting Criteria for the period from January 1, 2024 through December 31, 2024 (the “*First Measurement Period*”), with any fractional shares being rounded down to the nearest whole share;
 - (ii) Up to 1/3 of the Maximum Number of PRSUs will be eligible to vest based on achievement of the Vesting Criteria for the period from January 1, 2024 through December 31, 2025 (the “*Second Measurement Period*”), with any fractional shares being rounded down to the nearest whole share; and
 - (iii) Up to 1/3 of the Maximum Number of PRSUs will be eligible to vest based on achievement of the Vesting Criteria for the period from January 1, 2024 through December 31, 2026 (the “*Third Measurement Period*”, together with the First Measurement Period and the Second Measurement Period, the “*Performance Period*” and each a “*Measurement Period*”).
 - (iv) Each installment of PRSUs that vests hereunder is a “separate payment” for purposes of Treasury Regulations Section 1.409A-2(b)(2).
- (b) The vesting of the PRSUs is contingent upon:
- (i) a determination by the Committee that the Vesting Criteria have been satisfied and the PRSUs have been earned for the applicable Measurement Period; and
 - (ii) the Participant’s Continuous Service from the Date of Grant through the Determination Date (as defined in **Exhibit A** to the Award Agreement) for the applicable Measurement Period.
- (c) Notwithstanding paragraphs (a) and (b) above, if (i) the Participant’s Continuous Service ends prior to the Determination Date for the Third Measurement Period due to the Participant’s

death or Disability (as defined in the Plan) or (ii) a Change in Control occurs, vesting of the PRSUs will be as set forth in Sections 4(b) through (f) of Appendix A to the Award Agreement, as applicable.

Issuance Schedule: Subject to any change on a Capitalization Adjustment, one share of Common Stock will be issued for each PRSU that vests at the time set forth in the Award Agreement, but in all cases within the “short term deferral” period determined under Treasury Regulations Section 1.409A-1(b)(4).

Additional Terms/Acknowledgements: Participant acknowledges receipt of, and understands and agrees to, this Notice, the Award Agreement (including Exhibit A thereto), the Plan and the prospectus for the Plan. As of the Date of Grant, this Notice, the Award Agreement (including Exhibit A thereto) and the Plan set forth the entire understanding between Participant and the Company regarding the Award and supersede all prior oral and written agreements on the terms of the Award, with the exception, if applicable, any compensation recovery policy that is adopted by the Company or is otherwise required by applicable law. By accepting this Award, Participant consents to receive Plan documents by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

FIVE9, INC.

PARTICIPANT:

By: _____
Signature

Signature

Title: _____

Date: _____

Date: _____

FIVE9, INC.
2014 EQUITY INCENTIVE PLAN

PERFORMANCE-BASED RESTRICTED STOCK UNIT AGREEMENT

Five9, Inc. (the “*Company*”) has awarded you a performance-based Restricted Stock Unit Award (the “*Award*”) that is subject to its 2014 Equity Incentive Plan (the “*Plan*”), the Performance-Based Restricted Stock Unit Grant Notice (the “*Grant Notice*”) and this Performance-Based Restricted Stock Unit Agreement (the “*Agreement*”), for the number of performance-based Restricted Stock Units indicated in the Grant Notice. Capitalized terms not explicitly defined in this Agreement or in the Grant Notice but defined in the Plan will have the same definitions as in the Plan. In the event of any conflict between the terms in this Agreement and the Plan, the terms of the Plan will control.

1. GRANT OF THE AWARD. The Award represents your right to be issued on a future date one share of Common Stock for each performance-based Restricted Stock Unit that vests.

2. VESTING. Your performance-based Restricted Stock Units will vest as provided in the Grant Notice and **Exhibit A** to the Agreement. Except as otherwise provided in the Grant Notice or in **Exhibit A** to the Agreement, (i) vesting will cease on the termination of your Continuous Service and (ii) any performance-based Restricted Stock Units that have not vested (after taking into account any (A) acceleration that occurs on your termination or (B) potential vesting that could occur after your termination, as provided in the Grant Notice or **Exhibit A** to the Agreement) will be forfeited on the termination of your Continuous Service.

3. ADJUSTMENTS TO NUMBER OF PRSUs & SHARES OF COMMON STOCK.

(a) The performance-based Restricted Stock Units subject to your Award will be adjusted for Capitalization Adjustments, as provided in the Plan.

(b) Any additional performance-based Restricted Stock Units and any shares, cash or other property that become subject to the Award will be subject, in a manner determined by the Board, to the terms of the Award, including the same forfeiture restrictions, restrictions on transferability, and time and manner of delivery as applicable to the other performance-based Restricted Stock Units and shares covered by your Award.

(c) You have no rights to be issued any fractional share of Common Stock or cash in lieu of such fractional share under this Award. Any fraction of a share will be rounded down to the nearest whole share.

4. SECURITIES LAW COMPLIANCE. You will not be issued any Common Stock underlying the performance-based Restricted Stock Units or other shares with respect to your performance-based Restricted Stock Units unless either (i) the shares are registered under the Securities Act, or (ii) the Company has determined that such issuance would be exempt from the registration requirements of the Securities Act. Your Award also must comply with other applicable laws and regulations governing the Award, and you will not receive shares underlying

your performance-based Restricted Stock Units if the Company determines that such receipt would not be in material compliance with such laws and regulations.

5. TRANSFERABILITY. Prior to the time that shares of Common Stock have been delivered to you, you may not transfer, pledge, sell or otherwise dispose of any portion of the performance-based Restricted Stock Units or the shares in respect of your performance-based Restricted Stock Units. For example, you may not use shares that may be issued in respect of your performance-based Restricted Stock Units as security for a loan, nor may you transfer, pledge, sell or otherwise dispose of such shares. This restriction on transfer will lapse on delivery to you of shares in respect of your vested performance-based Restricted Stock Units.

(a) Death. Your performance-based Restricted Stock Units are not transferable other than by will and by the laws of descent and distribution. At your death, your executor or administrator of your estate will be entitled to receive, on behalf of your estate, Common Stock or other consideration under this Award.

(b) Domestic Relations Orders. If you receive written permission from the Board or its duly authorized designee, and provided that you and the designated transferee enter into transfer and other agreements required by the Company, you may transfer your right to receive the distribution of Common Stock or other consideration under your performance-based Restricted Stock Units, in accordance with a domestic relations order or official marital settlement agreement that contains the information required by the Company to effectuate the transfer. You are encouraged to discuss with the Company's General Counsel the proposed terms of any such transfer prior to finalizing the domestic relations order or marital settlement agreement to verify that you may make such transfer, and if so, to help ensure the required information is contained within the domestic relations order or marital settlement agreement. The Company is not obligated to allow you to transfer your Award in connection with your domestic relations order or marital settlement agreement.

6. DATE OF ISSUANCE.

(a) The issuance of shares in respect of the vested portion of performance-based Restricted Stock Units is intended to comply with Treasury Regulations Section 1.409A-1(b)(4) and will be construed and administered in such a manner. As a result, the shares will be issued no later than the date that is the 15th day of the third calendar month of the applicable year following the year in which the shares of Common Stock under this Award are no longer subject to a "substantial risk of forfeiture" within the meaning of Treasury Regulations Section 1.409A-1(d). Subject to the foregoing, unless otherwise determined by the Committee, the issuance of the shares underlying vested performance-based Restricted Stock Units will be delayed until the first business day on which such shares may be sold by you to satisfy the Company's required tax withholding obligations.

(b) If the Company determines that it is necessary to comply with applicable tax laws, the shares will be issued no later than December 31 of the calendar year in which the shares are no longer subject to a "substantial risk of forfeiture" within the meaning of Treasury Regulations Section 1.409A-1(d).

7. **DIVIDENDS.** You will receive no benefit or adjustment to your performance-based Restricted Stock Units with respect to any cash dividend, stock dividend or other distribution except as provided in the Plan with respect to a Capitalization Adjustment.

8. **RESTRICTIVE LEGENDS.** The Common Stock issued with respect to your performance-based Restricted Stock Units will be endorsed with appropriate legends determined by the Company.

9. **AWARD NOT A SERVICE CONTRACT.** Your Continuous Service is not for any specified term and may be terminated by you or by the Company or an Affiliate at any time, for any reason, with or without cause and with or without notice. Nothing in this Agreement (including, but not limited to, the vesting of your performance-based Restricted Stock Units or the issuance of the shares subject to your performance-based Restricted Stock Units), the Plan or any covenant of good faith and fair dealing that may be found implicit in this Agreement or the Plan shall: (i) confer on you any right to continue in the employ or service of, or affiliation with, the Company or an Affiliate; (ii) constitute any promise or commitment by the Company or an Affiliate regarding the fact or nature of future positions, future work assignments, future compensation or any other term or condition of employment or affiliation; (iii) confer any right or benefit under this Agreement or the Plan unless such right or benefit has specifically accrued under the terms of this Agreement or Plan; or (iv) deprive the Company of the right to terminate you at will and without regard to any future vesting opportunity that you may have.

10. **WITHHOLDING OBLIGATIONS.**

(a) On each vesting date, and on or before the time you receive a distribution of the shares underlying your performance-based Restricted Stock Units, and at any other time as reasonably requested by the Company in accordance with applicable tax laws, you agree to make adequate provision for any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or any Affiliate that arise in connection with your Award (the “**Withholding Taxes**”). Specifically, the Company or an Affiliate may, in its sole discretion, satisfy all or any portion of the Withholding Taxes relating to your Award by any of the following means or by a combination of such means: (i) withholding from any compensation otherwise payable to you by the Company or an Affiliate; (ii) causing you to tender a cash payment (which may be in the form of a check, electronic wire transfer or other method permitted by the Company); (iii) permitting or requiring you to enter into a “same day sale” commitment with a broker-dealer that is a member of the Financial Industry Regulatory Authority (a “**FINRA Dealer**”) whereby you irrevocably elect to sell a portion of the shares to be delivered in connection with your performance-based Restricted Stock Units to satisfy the Withholding Taxes and whereby the FINRA Dealer irrevocably commits to forward the proceeds necessary to satisfy the Withholding Taxes directly to the Company and/or its Affiliates; or (iv) subject to the approval of the independent members of the Board, withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to you in connection with your performance-based Restricted Stock Units with a fair market value (measured as of the date shares of Common Stock are issued to you) equal to the amount of such Withholding Taxes; *provided, however*, that the number of such shares of Common Stock so withheld will not exceed the amount necessary to satisfy the Company’s required tax withholding obligations using the minimum statutory withholding rates for federal, state, local

and foreign tax purposes, including payroll taxes, that are applicable to supplemental taxable income.

(b) Unless the Withholding Taxes of the Company and/or any Affiliate are satisfied, the Company will have no obligation to deliver to you any Common Stock.

(c) If the Company's obligation to withhold arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Company's withholding obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

11. UNSECURED OBLIGATION. Your Award is unfunded, and as a holder of vested performance-based Restricted Stock Units, you will be considered an unsecured creditor of the Company with respect to the Company's obligation, if any, to issue shares or other property pursuant to this Agreement. You will not have voting or any other rights as a stockholder of the Company with respect to the shares to be issued pursuant to this Agreement until such shares are issued to you. On such issuance, you will obtain full voting and other rights as a stockholder of the Company. Nothing contained in this Agreement, and no action taken pursuant to its provisions, will create or be construed to create a trust of any kind or a fiduciary relationship between you and the Company or any other person.

12. NOTICES. Any notices provided for in this Agreement or the Plan will be given in writing (including electronically) and will be deemed effectively given on receipt or, in the case of notices delivered by the Company to you, five days after deposit in the U.S. mail, postage prepaid, addressed to you at the last address you provided to the Company. The Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and this Award by electronic means or to request your consent to participate in the Plan by electronic means. By accepting this Award, you consent to receive such documents by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

13. MISCELLANEOUS.

(a) The rights and obligations of the Company under your Award will be transferable to any one or more persons or entities, and all covenants and agreements hereunder will inure to the benefit of, and be enforceable by the Company's successors and assigns.

(b) You agree on request to execute any further documents or instruments necessary or desirable in the sole determination of the Company to carry out the purposes or intent of your Award.

(c) You acknowledge and agree that you have reviewed your Award in its entirety, have had an opportunity to obtain the advice of counsel prior to executing and accepting your Award, and fully understand all provisions of your Award.

(d) This Agreement will be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

(e) All obligations of the Company under the Plan and this Agreement will be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business and/or assets of the Company.

14. GOVERNING PLAN DOCUMENT. Your Award is subject to all the provisions of the Plan, the provisions of which are hereby made a part of your Award, and is further subject to all interpretations, amendments, rules and regulations which may from time to time be promulgated and adopted pursuant to the Plan. Your Award (and any compensation paid or shares issued under your Award) is subject to recoupment in accordance with The Dodd–Frank Wall Street Reform and Consumer Protection Act and any implementing regulations thereunder, any clawback policy adopted by the Company and any compensation recovery policy otherwise required by applicable law. No recovery of compensation under such a clawback policy will be an event giving rise to a right to voluntarily terminate employment on a Resignation for Good Reason, or for a “constructive termination” or any similar term under any plan of or agreement with the Company. You hereby acknowledge receipt or the right to receive a document providing the information required by Rule 428(b)(1) promulgated under the Securities Act, which includes the Plan prospectus. In addition, you acknowledge receipt of the Company’s policy permitting officers and directors to sell shares only during certain “window” periods and the Company’s insider trading policy, in effect from time to time.

15. SEVERABILITY. If all or any part of this Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity will not invalidate any portion of this Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Agreement (or part of such a Section) so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

16. EFFECT ON OTHER EMPLOYEE BENEFIT PLANS. The value of the Award subject to this Agreement will not be included as compensation, earnings, salaries, or other similar terms used when calculating the Employee’s benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company’s or any Affiliate’s employee benefit plans.

17. AMENDMENT. Any amendment to this Agreement must be in writing, signed by a duly authorized representative of the Company. The Board reserves the right to amend this Agreement in any way it may deem necessary or advisable to carry out the purpose of the grant as a result of any change in applicable laws or regulations or any future law, regulation, interpretation, ruling, or judicial decision.

18. COMPLIANCE WITH SECTION 409A OF THE CODE. This Award is intended to comply with the “short-term deferral” rule set forth in Treasury Regulation Section 1.409A-

1(b)(4). However, if this Award fails to satisfy the requirements of the short-term deferral rule and is otherwise not exempt from, and therefore deemed to be deferred compensation subject to, Section 409A of the Code, and if you are a “Specified Employee” (within the meaning set forth Section 409A(a)(2)(B)(i) of the Code) as of the date of your separation from service (within the meaning of Treasury Regulation Section 1.409A-1(h)), then the issuance of any shares that would otherwise be made on the date of the separation from service or within the first six months thereafter will not be made on the originally scheduled dates and will instead be issued in a lump sum on the date that is six months and one day after the date of the separation from service, with the balance of the shares issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares is necessary to avoid the imposition of taxation on you in respect of the shares under Section 409A of the Code. Each installment of shares that vests is a “separate payment” for purposes of Treasury Regulation Section 1.409A-2(b)(2).

19. NO OBLIGATION TO MINIMIZE TAXES. The Company has no duty or obligation to minimize the tax consequences to you of this Award and will not be liable to you for any adverse tax consequences to you arising in connection with this Award. You are hereby advised to consult with your own personal tax, financial and/or legal advisors regarding the tax consequences of this Award and by signing the Grant Notice, you have agreed that you have done so or knowingly and voluntarily declined to do so.

EXHIBIT A

FIVE9, INC. 2014 EQUITY INCENTIVE PLAN

Performance-Based Restricted Stock Unit Award Vesting Criteria

The number of performance-based Restricted Stock Units (“*PRSUs*”) that may vest will be determined in accordance with the following criteria (the “*Vesting Criteria*”). Certain capitalized terms used herein have the meanings set forth in Section 5 of this Exhibit A to the Performance-Based Restricted Stock Unit Agreement (the “*Agreement*”). Capitalized terms not explicitly defined in this Exhibit A to the Agreement but defined in the Plan, the Agreement or the Performance-Based Restricted Stock Unit Award Grant Notice (the “*Grant Notice*”) will have the same definitions as in the Plan, the Agreement or the Grant Notice.

1. PERFORMANCE PERIOD; MEASUREMENT PERIODS.

The overall performance period for the PRSUs shall be the period of time beginning January 1, 2024 and ending on December 31, 2026 (the “*Performance Period*”). During the Performance Period there will be three separate measurement periods of the Company’s TSR Percentile Rank (each, a “*Measurement Period*”). The start dates and end dates for the First Measurement Period, Second Measurement Period and Third Measurement Period are:

	First Measurement Period	Second Measurement Period	Third Measurement Period
Start Date	January 1, 2024	January 1, 2024	January 1, 2024
End Date	December 31, 2024	December 31, 2025	December 31, 2026

2. TARGET AND MAXIMUM NUMBER OF PRSUs.

The Target Number of PRSUs for each Measurement Period is equal to 1/3 of the Target Number of PRSUs specified in the Grant Notice (with the portions allocated to the First Measurement Period and Second Measurement Period rounded down to the nearest whole share and the portion allocated to the Third Measurement Period rounded up to the nearest whole share). The Maximum Number of PRSUs for each Measurement Period is equal to 1/3 of the Maximum Number of PRSUs specified in the Grant Notice (with the portions allocated to the First Measurement Period and Second Measurement Period rounded down to the nearest whole share and the portion allocated to the Third Measurement Period rounded up to the nearest whole share):

	First Measurement Period	Second Measurement Period	Third Measurement Period
Target Number of PRSUs			
Maximum Number of PRSUs			

3. RELATIVE TSR REQUIREMENT.

(a) As soon as practicable within the 60-day period following the last day of each Measurement Period, the Committee shall determine the applicable number of PRSUs that will vest based on the TSR Payout Percentage for the applicable Measurement Period. The date of the Committee’s determination and the date such vesting will occur is the “**Determination Date.**”

(b) As determined by the Committee on the Determination Date following the First Measurement Period, the number of PRSUs that will vest shall equal (i) the TSR Payout Percentage for the First Measurement Period *multiplied by* (ii) the Target Number of PRSUs for the First Measurement Period, with such number of PRSUs rounded down to the nearest whole unit. Such vested PRSUs will be settled in shares as soon as practicable thereafter, but in no event later than the time period set forth in Section 6 of the Agreement.

(c) As determined by the Committee on the Determination Date following the Second Measurement Period, the number of PRSUs that will vest shall equal (i) the TSR Payout Percentage for the Second Measurement Period *multiplied by* (ii) the Target Number of PRSUs for the Second Measurement Period, with such number of PRSUs rounded down to the nearest whole unit. Such vested PRSUs will be settled in shares as soon as practicable thereafter, but in no event later than the time period set forth in Section 6 of the Agreement.

(d) As determined by the Committee on the Determination Date following the Third Measurement Period, the number of PRSUs that will vest shall equal (i) the TSR Payout Percentage for the Third Measurement Period *multiplied by* (ii) the Target Number of PRSUs for the Third Measurement Period, with such number of PRSUs rounded up to the nearest whole unit. Such vested PRSUs will be settled in shares as soon as practicable thereafter, but in no event later than the time period set forth in Section 6 of the Agreement.

(e) Notwithstanding anything to the contrary herein, (i) in no event shall the number of PRSUs that vest exceed the Maximum Number of PRSUs specified in the Grant Notice and (ii) in the event the Company’s TSR for any Measurement Period is negative, the TSR Payout Percentage used by the Committee to determine the number of PRSUs for such Measurement Period that will vest pursuant to Section 3(b), (c) or (d) shall not exceed 100%.

(f) Any PRSUs that do not vest on the Determination Date following the applicable Measurement Period shall immediately terminate and be forfeited.

4. Service Requirement.

(a) Except as specifically provided in Section 4(b), (c) or (d) below, you must remain in Continuous Service through the Determination Date for the applicable Measurement Period in order for the applicable portion of the PRSUs specified in Section 3 to vest. Any PRSUs that vest upon a Determination Date shall be settled in shares as soon as practicable thereafter, but in no event later than the time period set forth in Section 6 of the Agreement.

(b) In the event your Continuous Service ends prior to the Determination Date for the Third Measurement Period due to your death, 100% of the PRSUs that are allocated to Measurement Periods that were incomplete on the date of such termination will have the opportunity to vest in accordance with Section 3 as if you had remained in Continuous Service until the Determination Date for each applicable Measurement Period.

(c) In the event your Continuous Service is terminated by the Company prior to the Determination Date for the Third Measurement Period due to your Disability (as defined in the Plan), (i) 50% of the PRSUs that are allocated to Measurement Periods that were incomplete as of the date of such termination will have the opportunity to vest in accordance with Section 3 as if you had remained in Continuous Service until the Determination Date for each applicable Measurement Period, and (ii) the remaining 50% of the unvested PRSUs will be forfeited on the date of such termination.

(d) Notwithstanding anything to the contrary in the Agreement, if a Change in Control occurs prior to the Determination Date for the Third Measurement Period and the PRSUs are not replaced with a Replacement Award, then all of the PRSUs for any incomplete Measurement Period shall immediately vest in the sum of the following amounts and shall be immediately settled in shares in connection with the Change in Control:

(i) the number of PRSUs determined based on the level of achievement of the Performance Goals for the portion of the Measurement Period in which the Change in Control occurs, prorated based on a fraction, the numerator of which is the number of days in the Measurement Period prior to the date of the Change in Control and the denominator of which is the total number of days in the Measurement Period, measured from the first day of such Measurement Period through the date of the Change in Control, calculated in accordance with Section 3, except using the date of the Change in Control as the last date of the Measurement Period and using the per share price paid to the Company's shareholders in such Change in Control as the Ending Period Average Price for the Company for such Measurement Period, and

(ii) the Target Number of PRSUs for any incomplete Measurement Periods, including a pro-rated portion of the Target Number of PRSUs for the Measurement Period in which the Change in Control occurs, pro-rated based on a fraction, the numerator of which is the number of days in the Measurement Period following the date of Change in Control and the denominator of which is the total number of days in the Measurement Period, measured for the portion of such Measurement Period beginning on the day immediately following the day the Change in Control occurs and ending on the last day of such Measurement Period.

(e) If a Change in Control occurs prior to the Determination Date for the Third Measurement Period and the PRSUs are replaced with a Replacement Award, then the unvested portion of such Replacement Award shall immediately vest in full if you experience a Change in Control Termination (as defined in the Company's 2019 Key Employee Severance Benefit Plan (the "**KESP**")) and shall be paid to you within 10 days following the later of such Change in Control Termination or the Change in Control.

(f) If your employment with the Company is terminated prior to a Change in Control and prior to the Determination Date for the Third Measurement Period due to a Constructive Termination or a termination by the Company without Cause (each as defined in the KESP), and a Change in Control occurs within three months following such termination of employment, then all of the PRSUs for any Measurement Period that was incomplete at the time of such termination shall immediately vest upon the Change in Control in the following amounts, and such amounts will be paid to you within 10 days following the Change in Control:

(i) to the extent that such termination occurs in a Measurement Period that is (a) incomplete as of the date such termination occurs and (b) complete prior to the date of the Change in Control, then the number of PRSUs determined based on the level of achievement of the Performance Goals for such Measurement Period (if applicable);

(ii) the number of PRSUs determined based on the level of achievement of the Performance Goals for the portion of the Measurement Period in which the Change in Control occurs, prorated based on the fraction described in Section 4(d)(i), measured from the first day of such Measurement Period through the date of the Change in Control, calculated in accordance with Section 3, except using the date of the Change in Control as the last date of the Measurement Period and using the per share price paid to the Company's shareholders in such Change in Control as the Ending Period Average Price for the Company for such Measurement Period, and

(iii) the Target Number of PRSUs for any incomplete Measurement Periods, including a pro-rated portion of the Target Number of PRSUs for the Measurement Period in which the Change in Control occurs, prorated based on the fraction described in Section 4(d)(ii), measured for the portion of such Measurement Period beginning on the day immediately following the day the Change in Control occurs and ending on the last day of such Measurement Period.

For the avoidance of doubt, if your employment is terminated due to a Constructive Termination or by the Company without Cause prior to a Change in Control, the unvested PRSUs shall remain outstanding for three months such that they may have an opportunity to vest in accordance with this Section if a Change in Control occurs within such time.

5. Definitions. For purposes of this Award, the following definitions will apply:

(a) "**Beginning Period Average Price**" means the average closing price per share of the relevant company over the 30 consecutive trading days prior to the first day of the applicable Measurement Period.

(b) “**Ending Period Average Price**” means the average closing price per share of the company over the 30 consecutive trading days ending with and including the last day of the applicable Measurement Period.

(c) “**Index Companies**” means the companies that were included in the S&P Software & Services Select Industry Index on January 1, 2024. The Index Companies may be changed as follows: (i) in the event of a merger, acquisition or business combination transaction of an Index Company with or by another Index Company, the surviving entity shall remain an Index Company; (ii) in the event of a merger, acquisition, or business combination transaction of an Index Company with or by another company that is not an Index Company, or “going private transaction” where the Index Company is not the surviving entity or is otherwise no longer publicly traded, the company shall no longer be an Index Company; and (iii) in the event of a bankruptcy of an Index Company, such company shall remain an Index Company and its stock price will continue to be tracked for purposes of the TSR Percentile Rank, and if the company liquidates, it will remain an Index Company and its stock price will be reduced to zero for all remaining Measurement Periods in the Performance Period.

(d) “**Replacement Award**” means an award that (i) preserves the value of the PRSUs and has terms at least as favorable to you as the terms and conditions in effect immediately prior to the Change in Control; (ii) has a value at least equal to the sum of (1) the value of PRSUs determined at least at the Target level for the portion of any Measurement Periods that were incomplete at the time of the Change in Control, including a prorated number of PRUs for the portion of the Measurement Period in which the Change in Control occurs, prorated based on the fraction described in Section 4(d)(ii), measured from the day immediately following the day the Change in Control occurs and ending on the last day of such Measurement Period and (2) the value of any PRSUs that would have been earned based on the actual level at which the Performance Goals were satisfied for the portion of the Measurement Period in which the Change in Control occurs, prorated based on the fraction described in Section 4(d)(i), measured from the first day of such Measurement Period to the date of the Change in Control, calculated in accordance with Section 3, except using the date of the Change in Control as the last date of the Measurement Period and using the per share price paid to the Company’s shareholders in such Change in Control as the Ending Period Average Price for the Company for such Measurement Period; (iii) continues to comply with Treasury Regulations Section 1.409A-1(b)(4); and (iv) is subject to only time-based vesting.

(e) “**TSR**” means total shareholder return as determined by dividing (i) the sum of (A) the Ending Period Average Price minus the Beginning Period Average Price plus (B) all dividends and other distributions paid on the company’s shares during the applicable period by (ii) the Beginning Period Average Price, in each case adjusted for stock splits and other changes in capital structure. In calculating TSR, all dividends are assumed to have been reinvested in shares on the ex-dividend date. The Committee shall have the authority to make appropriate equitable adjustments to account for extraordinary, unusual and infrequently occurring events and transactions affecting the TSR.

(f) “**TSR Payout Percentage**” means the percentage that corresponds to the TSR Percentile Rank specified below:

TSR Percentile Rank	TSR Payout Percentage
≥75 th percentile	200% (Maximum)
55 th percentile	100% (Target)
25 th percentile	50% (Threshold)
<25 th percentile	0%

The TSR Payout Percentage is interpolated linearly, rounded up to the nearest decimal point, between each of the levels in the table above, except the TSR Payout Percentage shall be 0% in the event the TSR Percentile Rank is below the 25th percentile.

(g) “*TSR Percentile Rank*” means the percentile ranking of the Company’s TSR among the TSRs for the Index Companies for applicable period determined by ranking the Index Companies from highest to lowest according to their respective TSRs, then calculating the TSR Percentile Rank relative to the other Index Companies as follows:

$$P = 1 - ((R-1)/(N-1))$$

Where:

“P” represents the TSR Percentile Rank rounded to the nearest whole percentile.

“R” represents the Company’s ranking among the Index Companies.

“N” represents the number of Index Companies.

In determining the Company’s TSR Percentile Rank for the applicable period, in the event that the Company’s TSR for the period is equal to the TSR(s) of one or more other Index Companies for that same period, the Company’s TSR Percentile Rank will be determined by ranking the Company’s TSR for that period as being greater than such other Index Companies.

JONES DAY

SILICON VALLEY OFFICE . 1755 EMBARCADERO ROAD . PALO ALTO, CALIFORNIA 94303
TELEPHONE: +1.650.739.3939 . FACSIMILE: +1.650.739.3900

February 21, 2024

Five9, Inc.
3001 Bishop Drive, Suite 350
San Ramon, California 94583

Re: Registration Statement on Form S-8 filed by Five9, Inc.

Ladies and Gentlemen:

We have acted as counsel for Five9, Inc., a Delaware corporation (the "Company"), in connection with the Company's 2014 Equity Incentive Plan and 2014 Employee Stock Purchase Plan (together, the "Plans"). In connection with the opinion expressed herein, we have examined such documents, records and matters of law as we have deemed relevant or necessary for purposes of this opinion. Based on the foregoing, and subject to the further limitations, qualifications and assumptions set forth herein, we are of the opinion that the 4,399,017 shares (the "Shares") of common stock, par value \$0.001 per share, of the Company that may be issued or delivered and sold pursuant to the Plans and the authorized forms of stock option, restricted stock or other applicable agreements thereunder (the "Award Agreements") will be, when issued or delivered and sold in accordance with such Plans and the Award Agreements, validly issued, fully paid and nonassessable, provided that the consideration for the Shares is at least equal to the stated par value thereof.

The opinion expressed herein is limited to the General Corporation Law of the State of Delaware, as currently in effect, and we express no opinion with respect to the laws of any other jurisdiction on the opinion expressed herein. In addition, we have assumed that the resolutions authorizing the Company to issue or deliver and sell the Shares pursuant to the Plans and the Award Agreements will be in full force and effect at all times at which the Shares are issued or delivered or sold by the Company, and that the Company will take no action inconsistent with such resolutions. In rendering the opinion above, we have assumed that each award under the Plans will be approved by the Board of Directors of the Company or an authorized committee of the Board of Directors.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement on Form S-8 filed by the Company to effect registration of the Shares under the Securities Act of 1933 (the "Act"). In giving such consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

Very truly yours,

/s/ Jones Day

Jones Day

AMSTERDAM • ATLANTA • BEIJING • BOSTON • BRISBANE • BRUSSELS • CHICAGO • CLEVELAND • COLUMBUS • DALLAS • DETROIT
DUBAI • DÜSSELDORF • FRANKFURT • HONG KONG • HOUSTON • IRVINE • LONDON • LOS ANGELES • MADRID • MELBOURNE
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SAN FRANCISCO • SAO PAULO • SAUDI ARABIA • SHANGHAI • SILICON VALLEY • SINGAPORE • SYDNEY • TAIPEI • TOKYO • WASHINGTON

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated February 21, 2024, with respect to the consolidated financial statements of Five9, Inc., and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP

Santa Clara, California

February 21, 2024