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Case No. 2020-0444-JRS

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

YATRA ONLINE, INC., Plaintiff, v. EBIX, INC. and EBIXCASH TRAVELS, INC. Defendants.	C.A. No. 2020-0444-JRS **PUBLIC [REDACTED] VERSION AS FILED ON JUNE 17, 2020**

VERIFIED COMPLAINT

Plaintiff Yatra Online, Inc. ("Yatra"), by and through its undersigned counsel, brings this verified complaint (the "Complaint") against defendants Ebix, Inc. ("Parent") and EbixCash Travels, Inc. ("Merger Sub" and, together with Parent, "Ebix") in connection with Ebix's serial breaches of a merger agreement dated July 16, 2019 (the "Merger Agreement") and a related merger extension agreement (the "Extension Agreement"). Except for facts specifically pertaining to Yatra and its own acts, the allegations in the Complaint are based upon information and belief, which includes but is not limited to: (a) Ebix's and Ebix's representatives' communications with Yatra and Yatra's representatives; (b) Ebix's public filings with the United States Securities and Exchange Commission (the "SEC"); (c) Yatra's communications with the SEC regarding pertinent matters; (d) other publicly available data; and (e) investigation by Yatra's corporate and litigation counsel.

I. NATURE OF THE CASE

1. This case presents a decidedly different twist on a broken merger. The buyer, Ebix, had been breaching numerous terms of the Merger Agreement since its execution in July 2019. Yatra, the seller and the non-breaching party, learned the truth about Ebix's violations—[redacted]—in January 2020. Nevertheless, Ebix had the audacity to use its own misconduct to seek to renegotiate the Merger on even better terms.

2. Ebix failed to bully Yatra into giving up its rights. As set forth below, Yatra now knows the truth about [redacted] and knows it cannot get the benefit of its bargain by seeking performance of the Merger Agreement. Instead, Yatra, for its benefit and for the benefit of its stockholders, brings this suit for money damages for Ebix's serial breaches and misrepresentations, which resulted in the failure of the Merger.

3. On July 16, 2019 (the "Signing Date"), Yatra and Ebix executed the Merger Agreement memorializing a stock-for-stock, reverse triangular merger, pursuant to which Yatra would merge into Merger Sub and survive as a wholly-owned subsidiary of Parent (the "Merger"). Under the Merger Agreement, both Yatra and Ebix assumed a number of obligations and made various representations and warranties.

4. Yatra has upheld its end of the Merger Agreement. As detailed below, however, over the ***ten months*** that have elapsed from the signing of the deal to the filing of this suit, Ebix has breached numerous terms. And, even as Yatra bent over backwards trying to give Ebix a path towards compliance, Yatra was met with intransience, delay, and subterfuge.

5. Most crucially, Ebix hid from Yatra— [redacted] creating an impediment to the closing of the Merger (the "Closing"). Among other things, for Ebix to issue stock as the Merger consideration, it had to file a Form S-4 (the "S-4"). [redacted] In light of Ebix's bad faith in hiding [redacted] from Yatra and then engaging in bad faith negotiations to restructure the deal, Yatra is declaring a material breach of the Merger Agreement and seeking damages.

6. Instead of working expeditiously to assuage [redacted] concerns, Ebix impermissibly dragged its feet in the preparation and filing of the S-4 itself, breaching its "reasonable best efforts" obligation under the Merger Agreement to [redacted] "as promptly as practicable." At this

point, Yatra must infer Ebix's refusal to [redacted]

7. The Merger Agreement initially contemplated an "Outside Date" for the Merger of April 12, 2020, such that after that date either party could terminate the Merger Agreement (the "Outside Date Termination Right"). The Outside Date Termination Right, however, is not available to a party such as Ebix that is in breach of the Merger Agreement, and such breach prevents the Closing. There is no automatic termination of the Merger Agreement after the elapse of a given period of time.

8. As the first Outside Date approached—and after the COVID-19 pandemic hit, causing unprecedented disruption across global markets—Ebix made it clear that it has no intention of closing the transaction agreed upon in the Merger Agreement. Rather, it demanded that Yatra renegotiate the binding deal that the parties carefully negotiated and executed. Yatra reluctantly opened such discussions.

9. Prior to the date of this Complaint, Yatra granted ***four*** extensions of the Outside Date, including via the Extension Agreement. Ebix, despite its obligations under the Merger Agreement and Extension Agreement, refused to engage with Yatra in good faith, failed to [redacted] withheld material

information, refused Yatra's requests for additional critical information that Yatra was entitled to receive, and reneged on the terms of proposals.

10. The time for negotiation (and renegotiation) is over. Ebix cannot and will not deliver to Yatra and Yatra's stockholders the benefits of the Merger Agreement. Accordingly, Yatra seeks equitable and monetary relief for Ebix's breaches of the Merger Agreement and the Extension Agreement.

II. JURISDICTION

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

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

13. This Court has personal jurisdiction over Defendants. Section 9.9 of the Merger Agreement provides:

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

> (a) . . . this Agreement, and any dispute arising out of or relating to this Agreement, shall be deemed to be made in and in all respects shall be interpreted, construed and governed by and enforced in accordance with the Laws of the State of Delaware, without regard to the conflicts of laws rules thereof.
>
> . . .
>
> (d) . . . each of the parties (i) irrevocably submits itself to the personal jurisdiction of each state or federal court sitting in the State of Delaware . . . in any Proceeding arising out of or relating to this Agreement, the Merger or the other transactions contemplated hereby . . .; [and] (ii) agrees that every such Proceeding shall be brought, heard and determined exclusively in the Court of Chancery of the State of Delaware . . . .

III. PARTIES

14. Plaintiff Yatra is a Cayman Islands exempted company with operations primarily in India. It is an online travel company that addresses the needs of both leisure and business travelers. Yatra's registered office is located in Grand Cayman and its principal executive office is located in India. Yatra's common stock is listed on NASDAQ under the symbol "YTRA," and certain warrants to purchase Yatra common stock are listed on the OTCQX Best Market under the symbol "YTROF."

15. Defendant Ebix, Inc. is a Delaware corporation with headquarters located in Johns Creek, Georgia. It operates as an international supplier of on-demand infrastructure exchanges to the insurance, financial, and healthcare

industries. Ebix, Inc's common stock is listed on NASDAQ under the symbol "EBIX."

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

IV. SUBSTANTIVE ALLEGATIONS

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

17. On February 13, 2019, during an informal in-person meeting, Robin Raina, the Chief Executive Officer ("CEO") of Ebix, indicated to Dhruv Shringi, the CEO of Yatra, that Ebix was interested in exploring a strategic transaction with Yatra. Shringi shared this inbound interest from Ebix with Yatra's senior management and certain members of Yatra's board of directors (the "Board").

18. Over the next two weeks, Shringi and Raina had a number of conversations discussing a potential transaction structure, the details of which Shringi relayed to members of Yatra senior management and the Board. Then, on February 24, 2019, Ebix sent to the Board a written proposal to acquire 100 percent of Yatra (the "Initial Proposal"). The Initial Proposal contemplated that the merger consideration would be payable either in cash or freely-tradeable Ebix stock (with a price floor), and that all outstanding Yatra warrants would be surrendered or repurchased and retired by Yatra prior to closing. In the scenario where the merger

consideration was stock, the Initial Proposal also provided for a put right that would allow former Yatra stockholders to sell back to Ebix such stock 25 months after closing at 90 percent of the price at which it was issued.

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

20. On March 11, 2019, without Yatra's prior permission, Ebix publicly disclosed the terms of the Initial Proposal in a press release and a Form 8-K filed with the SEC. Later that day, Yatra confirmed that it was exploring a transaction with Ebix, and the parties subsequently entered into a confidentiality agreement. From March 13, 2019 through April 10, 2019, Yatra continued to negotiate with Ebix, and it also had preliminary discussions with two other potential strategic purchasers identified by Citi.

21. Yatra thereafter determined to focus its attention on a potential transaction with Ebix, and over the next several months they heavily negotiated the terms of the Merger Agreement and conducted mutual due diligence investigations aided by competent advisors. Ultimately, on July 16, 2019, Yatra and Ebix finalized and executed the Merger Agreement, and they jointly announced the deal the next day.

B. Key Obligations of the Parties Under The Merger Agreement

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

23. The Put Right was a heavily negotiated, material component of the Merger, and it implied a Yatra equity value of $257 million. In other words, as of the Signing Date, the value of the Put Right equaled approximately 17.5%% of Ebix's market capitalization, and, of the date of this Complaint, the Put Right equaled approximately 29.6% of Ebix's market capitalization.

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

25. In addition to the foregoing economic terms, the Merger Agreement included a number of representations and warranties by Yatra and Ebix, as well as post-signing, pre-Closing covenants, which were tied to closing conditions for the

Merger. A description of such Merger Agreement provisions relevant to this action follows.

26. *First*, Ebix represented and warranted that [redacted] (collectively, the "Accuracy Provisions"):

- [redacted] (emphasis added)); and
- [redacted] (emphasis added).)

27. The Accuracy Provisions are of the utmost importance to Yatra, since its stockholders would, upon the Closing, become stockholders of Ebix, and it is critical that [redacted] Put simply, Yatra negotiated for its stockholders to take stock in a public company traded on NASDAQ, and it wanted to be sure that Ebix was and continued to be a listed and traded company, [redacted]

28. *Second*, and relatedly, Ebix represented that: [redacted] (collectively, the "Accounting Provisions"):

- [redacted] (emphasis added)); and
- [redacted] (emphasis added).)

29. The Accounting Provisions, like the Accuracy Provisions, are of the utmost importance to Yatra, since its stockholders would, upon the Closing, become stockholders of Ebix, and it is critical that Yatra stockholders accurately and

precisely understand the financials of the company in which they would receive stock as Merger consideration.

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

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

31. As described above, an effective S-4 is a closing condition to the Merger and a prerequisite for Yatra to hold its stockholder meeting for approval of the Merger. In order for Ebix to be able issue to the Convertible Preferred Stock to Yatra as Merger consideration, the SEC must declare effective the S-4; thus, Ebix would only have the currency to pay for Yatra under the Merger Agreement if it received this SEC approval.

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

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

33. As detailed below, Ebix has breached the Accuracy Provisions, the Accounting Provisions, the S-4 Provisions, and the Best Efforts Provision. It appears that Ebix's [redacted] In any event, Ebix repeatedly breached the Accuracy Provisions and the Accounting Provisions between the Signing Date and the date of this Complaint. Moreover, in bad faith, Ebix has breached the S-4 Provisions and the Best Efforts Provision in a transparent attempt to avoid the Closing and renegotiate a new deal.

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

34. The Merger Agreement initially provided an outside date of April 12, 2020 (the "Outside Date") for the Closing. Either party could terminate the Merger Agreement in the event that the Merger did not close by the Outside Date, ***unless*** the

terminating party has breached or violated any of its obligations under the Merger Agreement and "such breach has been the principal cause of or directly resulted in (A) the failure to satisfy the conditions to the obligations of the terminating party to consummate the Merger set forth in Article VII prior to the Outside Date or (B) the failure of the Closing to occur by the Outside Date." (*Id.* § 8.1(b)(i) (as defined above, the "Outside Date Termination Right").)

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

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

36. As described above, Ebix filing an S-4, and the SEC thereafter declaring it to be effective, is essential to the Closing, since the Merger consideration would consist of newly-issued Convertible Preferred Stock. Ebix covenanted, pursuant to the S-4 Provisions, to file the S-4 with the SEC no later than 45 days after execution of the Merger Agreement (*i.e.*, August 30, 2019), and thereafter to "use its reasonable best efforts" to have the SEC declare the S-4 effective "as promptly as practicable after such filing." (*Id.* § 6.1(a).) Ebix breached these

obligations, along with the Best Efforts Provision, by dragging its feet with the preparation and filing of the S-4, despite Yatra bending over backwards in attempts to assist Ebix in meeting its contractual obligations.

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

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

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

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

40. In the days immediately following the signing of the Merger Agreement, Yatra began to press Ebix on whether pro forma financials would be needed for the S-4. Indeed, on July 29, 2019, Yatra's counsel requested a call with Ebix's auditors to discuss the issue, including the specific Yatra financial information that Ebix would need if it were to prepare combined financials. Prior to the Signing Date, Ebix had replaced their global auditor, Cherry Bekaert (an internationally accredited top-50 firm), with T R Chadha, an Indian firm that had never audited a US-listed firm before.

41. On July 31, 2019, Yatra filed its annual report on a Form 20-F with the SEC. Yatra's counsel provided the Form 20-F to Ebix's counsel, and it requested to see Ebix's significance test analysis for review. On August 1, 2019, Ebix's counsel advised that they were working with Ebix on "running the significance test" and that the transaction might not require pro forma financials.

42. The following day, August 2, 2019, Yatra's counsel requested a status update from Ebix's counsel as to whether pro forma financials would be required, so that they could immediately convey that information to Yatra, and so that Yatra and its auditors could begin compiling the required information.

43. Yatra stood ready to prepare GAAP financials post haste, but it was awaiting Ebix's instructions as to the need for the S-4. In other words, given the resources required to convert its financials from IFRS to GAAP, including obtaining sign-off from its various auditors around the world, Yatra determined not to commence the exercise until Ebix specifically requested such financials. As it waited, nevertheless, Yatra continued to push Ebix to make a determination whether pro forma financials would be required.

44. On August 3, 2019, Ebix's counsel informed Yatra's counsel that Ebix was still working on the analysis. Yatra's counsel responded to Ebix's counsel that day requesting a group call "to discuss and agree [upon] the financial statements (including pro formas) that will be included in the S-4)," and gave proposed times when Yatra and its auditors would be available.

45. On August 5, 2019, Yatra's counsel again followed up with Ebix's counsel to request a call between the parties' auditors. Ebix's counsel responded that Ebix had been ***preoccupied*** with their Form 10-Q for the period ended June 30, 2019, and that August 6, 2019, would be ***the first time*** that Ebix would turn its attention to the significance test issue. Ebix's counsel proposed a call with both Ebix's and Yatra's auditors on August 7, 2019.

46. On August 6, 2019, Yatra's counsel again reached out to Ebix's counsel to confirm the August 7, 2019 call. Ebix's counsel responded that Ebix and its auditors were confirming numbers on the significance test, but that they did not believe they would need to "convert Yatra financials to GAAP and file pro formas" based on their preliminary analysis. Ebix's counsel also informed Yatra's counsel that they would not be available for the call that had been scheduled for August 7, 2019.

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

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

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

50. On August 23, 2019, Yatra's counsel sent Ebix's counsel an accounting analysis of the Yatra warrants conducted by Yatra with the assistance of Yatra's auditors. Yatra's counsel proposed that Ebix and its accountants discuss the analysis directly with Yatra and its accountants to reach final agreement on the significance test analysis.

51. On August 26, 2019, Yatra CEO Shringi personally sent an email to Ebix and its counsel to request an update and to schedule a call to discuss next steps. Two days later, on August 28, 2019, Yatra's counsel followed up with Ebix's counsel to request that they advise on the status of Ebix and Ebix's auditors' review of the Yatra warrant accounting analysis. Yatra's counsel requested that Ebix and its auditors liaise directly with Yatra and its auditors "as soon as possible to move this forward on a timely basis." Ebix responded the next day that it would revert back.

52. As of August 30, 2019, Ebix had violated the S-4 Provisions' requirement that it file the S-4 within 45 days of the Signing Date. At this time, not only had Ebix not filed the S-4, but it also had not determined whether pro forma financials were needed (despite Yatra's persistent prodding). Yatra did not provide a waiver for this breach.

53. On September 3, 2019, Yatra's counsel again requested an update on the status of Ebix's review and again suggested that Ebix and its auditor connect directly with Yatra and its auditor "as soon as possible" to move the Merger forward on a timely basis. The next day, Ebix confirmed Yatra's accounting analysis (*i.e.*, pro forma financials ***would*** be needed for the S-4) and requested Yatra's GAAP financials from the prior two years.

54. That day, on September 4, 2019, Yatra advised that it would take a few weeks to prepare the necessary financials, as the timing—created by Ebix's delay in determining whether the financials were necessary—coincided with Yatra's "simultaneously work[] on Q1 IFRS results as well as the audited financial statements for all the Indian entities under Indian GAAP so that their [annual general meeting] can be held by" a September 30, 2019 deadline.

55. On September 11, 2019, Yatra informed Ebix that it needed another two-to-four weeks to prepare the necessary GAAP financials, as Yatra's finance

team had to convert its financial statements for the relevant periods from IFRS to GAAP and then have the statements reviewed and approved by Yatra's independent auditors across several countries. Had Ebix not unreasonably delayed its significance test analysis, Yatra would have been able to provide its GAAP financials much earlier.

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

56. As described in further detail below, on September 12, 2019, or eight days after it finally notified Yatra that the S-4 would require pro forma financials, [redacted] Nevertheless, Ebix did not alert Yatra to [redacted] and, once it received Yatra's GAAP financials, Ebix continued its pattern of delay by not promptly compiling pro forma financials for the S-4.

57. On October 17, 2019, Yatra provided Ebix with the requested GAAP financials. By this date, Ebix should have been able to quickly compile pro forma financials, since the financials now were on an apples-to-apples basis, and to finalize and file the S-4. On October 22, 2019, Yatra's counsel and Ebix's counsel had a conversation to discuss the status of the S-4. Yatra's counsel followed up with Ebix's counsel on the status of the pro forma financials on October 28, 2019.

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

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

60. On December 2, 2019, still having not received the full S-4 with the pro forma financials, Yatra's counsel again followed up with Ebix's counsel for an update. That day, Ebix's counsel responded that the pro forma financials were "undergoing some adjustments and further review" and were expected to be delivered "by no later than this Friday," *i.e.*, December 6, 2019. Having not received the S-4 by this date, Yatra's counsel again followed up with Ebix's counsel on December 9, 2019.

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

62. In sum, Ebix's unjustified delays over this six-month period in conducting the significance test analysis and preparing and filing the S-4 with pro forma financials breached both the S-4 Provisions and the Best Effort Provision. Ebix knew how crucial an effective S-4 would be to the Closing, yet it flaunted the 45-day deadline to file the S-4 and was inexcusably dilatory in preparing its significance test analysis.

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

64. As of the time of the filing of this Complaint, the SEC ***still*** had not declared effective either the S-4 or the F-4.

D. Ebix Hides [redacted] From Yatra In Breach Of The Merger Agreement

65. Unbeknownst to Yatra, as Ebix was inexcusably dragging its feet on the significance test analysis and preparation of the S-4 with the pro forma financials detailed above, [redacted]

66. Ebix [redacted] from Yatra for months in blatant violations of [redacted] Indeed, Yatra only discovered the problem through [redacted]

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

68. [redacted] In June 2013, an affiliate of Goldman, Sachs

& Co. terminated its agreement to acquire Ebix for $20 per share in cash (a deal valued at $820 million), after the United States Attorney for the Northern District of Georgia initiated a federal investigation into Ebix's [redacted] that were also the subject of a prior SEC investigation and securities class action lawsuits filed against Ebix.

69. Market practice is to work quickly and collaboratively [redacted]

i. [redacted]

70. As discussed above, pursuant to the Accounting Provisions, Ebix represented and warranted that, from December 31, 2018 to July 16, 2019, it had [redacted] Ebix's counsel independently confirmed this representation.

71. Nevertheless, Yatra is aware that, between September 12, 2019 and the date of the filing of the Complaint, Ebix [redacted] Over this time period, *i.e.*, less than seven months, Ebix has had ***three*** different Chief Financial Officers ("CFOs"). All three CFOs, however, still remain on Ebix's payroll.

72. [redacted]

73. [redacted]

74. [redacted]

75. [redacted]

76. [redacted]

ii. The Truth About [redacted]

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

78. [redacted]

79. [redacted]

80. Given the general market practice of [redacted] Yatra believed that the Merger would close presently, and it was pleased that [redacted]

Thus, during this time, Yatra's counsel worked expeditiously to finalize the F-4 and Yatra's portion of the S-4.

81. On January 27, 2020, Yatra's counsel requested an update from Ebix's counsel on as Yatra was "eager to finalize and mail before [February 10, 2020] so that the pro formas/historicals don't have to be rolled forward." Ebix's counsel informed Yatra's counsel that it had not heard anything further.

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

83. Three days later, on January 31, 2020, Yatra's counsel followed up for an update.

[redacted]

84. [redacted]

85. That day, Ebix informed Yatra that [redacted]

86. On February 6, 2020, Yatra's counsel requested [redacted]

87. On February 7, 2020, [redacted] On March 2, 2020, Ebix filed its Form 10-K for the Period Ended December 30, 2019. [redacted] Yatra's counsel emailed Ebix's counsel on March 4, 2020, asking for confirmation that [redacted]

[redacted]

90. [redacted]

91. On March 13, 2020, Ebix's counsel informed Yatra's counsel that [redacted]

92. On March 19, 2020, [redacted] demonstrates that Ebix had no intention of closing the Merger by the Outside Date.

iv. [redacted]

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

94. On March 30, 2020, Ebix's counsel provided Yatra's counsel with [redacted] That day, Yatra's counsel asked [redacted] and demanded [redacted]

[redacted]

95. On April 16, 2020, Ebix sent [redacted] Ebix's prior two CFOs—Robert Kerris and Sean T. Donaghy—have remained on Ebix's payroll.

96. [redacted]

[redacted]

97. [redacted] This extension request violated Ebix's covenants under the S-4 Provisions and the Best Efforts Provision to use its "reasonable best efforts" to have the SEC declare effective the S-4 "as promptly as practicable." Ebix agreed to provide its response to Yatra, yet it did not do so.

98. In sum, Ebix's unreasonably dilatory conduct [redacted] violates Ebix's covenants under the S-4 Provisions and the Best Efforts Provision to use its "reasonable best efforts" to have the SEC declare effective the S-4 "as promptly as practicable." [redacted] Such failure to [redacted] indicates that Ebix has not met the standards set forth in the S-4 Provisions and the Best Efforts Provision.

99. Even more egregiously, given the Merger is a stock-for-stock deal, Ebix has breached the Accuracy Provisions and Accounting Provisions. [redacted]

100. Due to Ebix's multiple breaches, the SEC has not declared effective the S-4 and Merger has been unable to close. As described below, Ebix has parlayed these breaches in an attempt to renege on the Merger Agreement and avoid the Closing.

E. Ebix Improperly And In Bad Faith Tries To Renegotiate The Merger

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

102. Yatra wanted to close the Merger, and it had no desire to renegotiate the deal embodied by the Merger Agreement. Nevertheless, Yatra realized that, after the elapse of eight months since the Signing Date and Ebix's repeated breaches of the Merger Agreement, Ebix was resolutely unwilling to close the Merger on its

carefully negotiated terms despite Ebix's contractual obligations. Accordingly, and reluctantly, Yatra agreed to come to the negotiating table in good faith to try to renegotiate a mutually beneficial deal. In doing so, however, Yatra reserved all its rights under the Merger Agreement, which remained in full force and effect and continued to bind the parties.

103. Ebix, however, never intended to negotiate a revised deal in good faith. Instead, it just wanted to extend the timeline to finalize an amendment to its credit agreement and announce its first quarter financial results without the overhang of litigation or [redacted]. To buy this time, Ebix sought repeated extensions to the Outside Date and then proposed a number of material revised deal terms.

104. After Ebix finalized an amendment to its credit agreement and announced its first quarter financial results, it refused to negotiate with Yatra in good faith, including by reneging on material terms of the deal that it proposed. This misconduct has not only resulted in further breaches of the Merger Agreement (which, as previously emphasized, was still in full force and effect), but it also amounted to independent breaches of the Extension Agreement, as described in more detail below.

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

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

106. On April 4, 2020, members of the Yatra Board had a conversation with Raina, in which Raina said that the deal reflected in the Merger Agreement could not happen, including the Put Right, which was a heavily negotiated term critically important to Yatra. As indicated above, the Put Right was a hugely material economically for Yatra, and it implied a $257 million valuation of Yatra's equity.

107. Raina indicated that the Ebix board would look at any Yatra deal afresh, notwithstanding that Ebix was already bound by the Merger Agreement. Raina said that he was trying to assess if there was an alternative deal that he could propose and would revert within 48 hours with a proposed plan.

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

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

110. The Notice also acknowledged that Raina intended to propose revised Merger terms and stated: "While the Merger Agreement that the parties previously negotiated and executed ***is binding and enforceable as is***, in order for Yatra and its Board of Directors to carefully assess any such proposal by Ebix, and for the benefit of both parties to work together to consummate the Merger, Yatra is agreeable to extending the Outside Date for a period of two weeks, until April 26, 2020." (Emphasis added.) The Notice made clear, however, that this was "on the condition

that such extension ***does not constitute a waiver of or otherwise impair Yatra's rights to enforce the Merger Agreement***." (Emphasis added.) The Notice gave Ebix a deadline of 5:00 p.m. EST on April 9, 2020 to inform Yatra if it agreed to extend the Outside Date on the stated condition.

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

ii. The Extensions Are Mere Pretexts For Ebix

112. From April to early May, Ebix was confronted with two significant corporate events: (a) negotiations of an amendment to its credit facility necessitated by the impact that the COVID-19 pandemic was having on its business operations and (b) the announcement of its first quarter financial results. Ebix was deeply concerned about the repercussions of a failed Merger and its accompanying litigation, as well as [redacted] on negotiations with its lenders and its stock price.

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

114. On May 3, 2020, Ebix provided a term sheet (the "Head of Terms") for a renegotiated deal. The Heads of Terms laid out, at a high level, a transaction that was structured differently from the deal agreed upon in the Merger Agreement and was also less desirable from a financial point of view for Yatra. Nevertheless, Yatra was reluctantly open to negotiating a revised deal based on the Heads of Terms because it was clear that Ebix would not close the Merger, so long as Yatra could get comfortable that such transaction would be likely to close [redacted] and that it could receive a new fairness opinion from its financial advisor. To that end, Yatra made clear to Ebix that it would require fulsome and transparent diligence into Ebix's [redacted] The parties did not formally execute the Heads of Terms, however, and the Merger Agreement was still in full force and effect and bound the parties thereto.

115. Following Yatra's receipt of the Heads of Terms, Shringi and Raina had a discussion in which they agreed to modify certain terms in the Heads of Terms. Shringi and Raina agreed that they would not trade any further term sheets, and that Ebix would send over definitive documentation for a revised deal that mirrored the terms set forth in the Heads of Terms, as modified by this subsequent discussion. This promise gave Ebix the breathing room it wanted to finalize the amendment to its credit agreement and announce its financial results.

116. On May 7, 2020, Ebix entered into an amendment to its credit agreement. According to a Form 8-K subsequently filed on May 11, 2020, Ebix sought this amendment for "increased flexibility under financial maintenance covenants" "due to the unforeseen negative effects of the COVID-19 pandemic." In other words, Ebix had been in default of, or was dangerously close to being in default of, its prior credit agreement. Given its own operational difficulties, it is reasonable to infer that Ebix never actually wanted to come to a revised deal with Yatra; rather, it wanted to extend the Outside Date so that it could reach an amendment with its lenders before those creditors would or could call an event of default and accelerate Ebix's bank debt.

117. A May 8, 2020 email from Yata's counsel to Ebix's counsel spurred Ebix into illusory action. In this email, Yatra expressed a willingness to renegotiate the deal, but provided certain parameters for such discussions that were "eminently reasonable requests and absolutely necessary for Yatra's Board to be able to carefully consider whether the parties can reach agreement on any renegotiated terms":

> While Yatra is amenable to attempting to [renegotiating certain terms of the Merger], as of right now, there are two barriers to doing so: (1) allowing Yatra's lawyers (along with [its auditors], Citi and Yatra's Board members) to participate in a diligence call with Ebix regarding [redacted]

[redacted] and (2) Ebix providing a term sheet that clearly and unambiguously articulates Ebix's proposal.

118. The May 8, 2020 email reiterated that the Merger Agreement has no automatic termination provision, and that the Outside Date Termination Right is unavailable to Ebix due to its multiple breaches of the Merger Agreement. Moreover, the email attached a draft press release that Yatra would disseminate should Ebix purport to terminate impermissibly the Merger Agreement. In particular, the press release was drafted "to explain to the market why the Merger has not closed and [Yatra's] intention to hold Ebix accountable for its multiple breaches of the Merger Agreement." The draft press release, among other things, cited Ebix's [redacted] to illustrate certain of these breaches.

119. The ***last*** thing that Ebix wanted was for Yatra to send out that press release, since Ebix was scheduled to announce its first quarter financial results three days later, on May 11, 2020, and [redacted]

iii. Ebix Breaches The Extension Agreement

120. On May, 14, 2020, Yatra and Ebix agreed to a fourth extension of the Outside Date (as defined above, the "Extension Agreement"), which not only pushed out the Outside Date to June 4, 2020, but it also imposed certain affirmative

obligations on Ebix that mirrored the parameters set forth in the May 8, 2020 email, including covenants to make its management and advisors available to Yatra and to negotiate a potential revised deal in good faith:

> i. Ebix shall make available its officers and outside legal counsel as Yatra's Board of Directors requests for a telephonic diligence session with Yatra and its advisors (including the legal counsel for each) to further diligence Ebix. Such diligence session shall take place no later than May 18, 2020. Yatra shall make available its officers to Ebix, as Ebix's Board of Directors requests for a diligence session with Yatra. Such diligence session shall take place no later than May 18, 2020. If requested by Yatra, such officers and outside legal counsel of Ebix will also participate in any follow-up diligence sessions, including with Yatra's financial advisor for purposes of its fairness analysis, as the Yatra Board of Directors determines is necessary to satisfactorily assess the diligence issues.

(the "Diligence Covenant"); and

> iv. From the date hereof until June 4, 2020, Ebix and its advisors will promptly provide revised drafts of transaction documents (and in any event within 48 hours of receipt of comments from Yatra on such) and negotiate in good faith with Yatra and its advisors to determine whether the Parties can mutually agree on an amendment of the Merger Agreement and amended terms of the Ebix Series Y Preferred stock.

(the "Good Faith Covenant").

121. After executing the Extension Agreement, Ebix has breached both the Diligence Covenant and the Good Faith Covenant.

122. *First*, in accordance with the Diligence Covenant, Yatra, Ebix, and their advisors met for a diligence session on May 18, 2020. As part of that diligence session, Yatra and its advisors asked questions about Ebix's [redacted] Despite Yatra having the right to ask questions "necessary to satisfactorily

assess the diligence issues" (and such [redacted] being core to the ability to close the Merger), Ebix staunchly refused to provide any detail, in violation of the Extension Agreement. Indeed, Ebix merely pointed Yatra to its public filings to answers for its questions, and Raina dismissively (and incorrectly) stated "[redacted]

[redacted]

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

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

- Under the Heads of Terms, in exchange for eliminating the Put Right, Ebix had offered to issue a stock dividend for the Convertible Preferred

Stock payable 25 months after Closing. Ebix thereafter raised a potential issue with such a stock dividend, because if the dividend would involve an issuance of more than 20% of Ebix's stock, a stockholder vote would be required under NASDAQ rules. Ebix wanted to avoid a stockholder vote, so it proposed reducing the number of shares issued in accordance with the dividend, but it said the reduction in shares would be offset with equivalent consideration in a different form. The Draft Amendment, however, does not include ***any*** stock dividend or corresponding economically equivalent consideration in a different form.

- Under the Heads of Terms, Ebix agreed that Yatra would have the ability to raise up to $10 million in incremental capital prior to the Closing, but such financing would have to be reviewed and approved by Ebix. Instead of allowing Yatra to access capital on fair or market terms, Ebix proposed a predatory structure that could allow Ebix to seize one of Yatra's crown jewel asset for pennies on the dollar. More specifically, Ebix offered to provide $10 million in financing, but if the Merger did not close and Yatra did not pay Ebix back within ten days of termination, Ebix would be able to foreclose on this asset worth multiple times the $10 million loan.

- Ebix had proposed assuming [redacted] Specifically, Ebix had agreed to pay a multi-million dollar quasi break fee to Yatra should it not get [redacted], and this quasi break fee would be in addition to any other remedies that Yatra could seek under the Merger Agreement and the Extension Agreement. This quasi break fee concept is entirely absent from the Draft Amendment.

125. When Yatra's counsel questioned Ebix's counsel about this unacceptable "bait and switch," Ebix's counsel simply advised such terms were "off the table." In other words, Ebix intentionally dangled in bad faith revised terms before Yatra with the intent of causing Yatra to delay terminating the Merger

Agreement and issuing a truthful (but damaging for Ebix) press release, yet Ebix never had any intention of agreeing to such terms.

126. On May 26, 2020, Yatra's counsel sent a term sheet for a revised deal (the "Revised Term Sheet") to Ebix's counsel. The Revised Term Sheet outlined a deal that reflected the Heads of Terms, as modified by the subsequent discussion between Shringi and Raina. Yatra's counsel noted that "[t]he Yatra board views these items as essential, as well as the satisfactory completion of the Yatra board's legal and financial analysis as to whether the transaction with Ebix can close."

127. Ebix refused to respond to Revised Term Sheet until (a) it received written responses to certain diligence questions and (b) the parties held a diligence call. Although Ebix did not have a contractual right for either of these demands—its right to request a diligence call under the Extension Agreement expired on May 18, 2020—Yatra agreed to each in the interest of determining whether the parties could reach agreement on any revised deal terms. On May 31, 2020, Yatra responded to Ebix's written questions and offered to hold a diligence call on June 2, 2020.

128. Nevertheless, Ebix continued not to negotiate in good faith. It refused to hold a diligence call until Yatra provided even more information (despite no

contractual requirement to), and Ebix refused to provide [redacted]

129. The extended Outside Date of June 4, 2020 thereafter elapsed. Accordingly, Yatra declared material breaches of the Merger Agreement and the Extension Agreement, and it determined to file this Complaint.

COUNT I

BREACH OF CONTRACT
(MERGER AGREEMENT)

130. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 129 above as if fully set forth herein.

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

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

133. Ebix has breached a number of the Merger Agreement's provisions, including the Accuracy Provisions, the Accounting Provisions, the S-4 Provisions, and the Best Efforts Provision, by: (a) failing to file the S-4 with the SEC within 45 days of the Signing Date; (b) failing to use reasonable best efforts to have the S-4 declared effective by the SEC as promptly as practicable after filing; (c) [redacted]

annual report; (d) [redacted] and (e) [redacted]

134. As a result of the injuries caused by Ebix's breaches of the Merger Agreement, Yatra is entitled to damages, as well as to all other relief this Court deems just and equitable.

COUNT II

BREACH OF CONTRACT
(EXTENSION AGREEMENT)

135. Yatra repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1 through 129 above as if fully set forth herein.

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

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

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

139. As a result of the injuries caused by Ebix's breaches of the Extension Agreement, Yatra is entitled to damages, as well as to all other relief this Court deems just and equitable.

V. RELIEF REQUESTED

WHEREFORE, Plaintiff demands judgment as follows:

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

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

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

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Dated: June 5, 2020

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

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