

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM469288

SUBMISSION TYPE:	RESUBMISSION
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	01/19/2016
RESUBMIT DOCUMENT ID:	900443548

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Mobilligy, Inc.		01/19/2016	Corporation: DELAWARE

RECEIVING PARTY DATA

Name:	PAYNEARME, INC.
Street Address:	292 GIBRALTAR DRIVE, SUITE 104
City:	Sunnyvale
State/Country:	CALIFORNIA
Postal Code:	94089
Entity Type:	Corporation: DELAWARE

PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Registration Number:	4213967	MOBILLIGY

CORRESPONDENCE DATA

Fax Number:

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 6509888500
Email: trademarks@fenwick.com
Correspondent Name: Erin Giacoppo c/o Fenwick & West LL
Address Line 1: 801 California Street
Address Line 4: Mountain View, CALIFORNIA 94041

ATTORNEY DOCKET NUMBER:	27434-00070-5244
NAME OF SUBMITTER:	Erin Giacoppo
SIGNATURE:	/erin giacoppo/
DATE SIGNED:	04/10/2018

Total Attachments: 8

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AGREEMENT AND PLAN OF MERGER

by and among

PAYNEARME, INC.,
a Delaware corporation,

POSEIDON ACQUISITION SUB, INC.,
a Delaware corporation,

MOBILLIGY, INC.,
a Delaware corporation,

and

CHASE FRANKLIN as the Stockholders' Agent

Dated as of **January 19, 2016**

Exhibits

<u>Exhibit A</u>	-	Definitions
<u>Exhibit B</u>	-	Form of Benefits Waiver
<u>Exhibit C</u>	-	Form of Written Consent
<u>Exhibit D-1</u>		Form of Joinder Agreement
<u>Exhibit D-2</u>		Form of Debt Waiver
<u>Exhibit D-3</u>		Form of Acquirer Stockholder Agreements Joinder
<u>Exhibit E</u>	-	Form of Stockholder Agreement
<u>Exhibit F</u>	-	[Reserved]
<u>Exhibit G</u>	-	Form of Certificate of Merger
<u>Exhibit H</u>	-	Legal Opinion Matters
<u>Exhibit I-1</u>	-	Form of FIRPTA Notice
<u>Exhibit I-2</u>	-	Form of FIRPTA Notification Letter

Schedules

Company Disclosure Letter		
<u>Schedule A</u>	-	Named Employees
<u>Schedule B</u>	-	Consenting Stockholders
<u>Schedule C</u>	-	Consenting Noteholders
<u>Schedule D</u>	-	Contracts to be Amended or Terminated
<u>Schedule E</u>	-	Employee Options

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "*Agreement*") is made and entered into as of January 19, 2016, by and among PayNearMe, Inc., a Delaware corporation ("*Acquirer*"), Poseidon Acquisition Sub, Inc., a Delaware corporation and a direct, wholly owned subsidiary of Acquirer ("*Merger Sub*"), Mobilligy, Inc., a Delaware corporation (the "*Company*"), and Chase Franklin, as the stockholders' agent (the "*Stockholders' Agent*"). Certain other capitalized terms used herein are defined in Exhibit A.

RECITALS

- A. Acquirer, Merger Sub and the Company intend to effect a merger of Merger Sub with and into the Company in accordance with this Agreement (the "*Merger*"). Upon consummation of the Merger, Merger Sub will cease to exist, and the Company will become a wholly owned subsidiary of Acquirer.
- B. The board of directors of the Company (the "*Board*") has carefully considered the terms of this Agreement and has unanimously (1) declared this Agreement and the transactions contemplated by this Agreement and the documents referenced herein (collectively, the "*Transactions*"), including the Merger, upon the terms and subject to the conditions set forth herein, advisable, fair to and in the best interests of the Company and the Company Stockholders, (2) approved this Agreement in accordance with Applicable Law and (3) adopted a resolution directing that the adoption of this Agreement and approval of the principal terms of the Merger be submitted to the Company Stockholders for consideration and recommending that all of the Company Stockholders adopt this Agreement and approve the Merger.
- C. The board of directors of Merger Sub has (1) declared this Agreement and the Transactions, including the Merger, upon the terms and subject to the conditions set forth herein, advisable, fair to and in the best interests of Merger Sub and the stockholder of Merger Sub and (2) adopted a resolution recommending that Acquirer, as the sole stockholder of Merger Sub, adopt this Agreement and approve the Merger.
- D. The board of directors of Acquirer (the "*Acquirer Board*") has approved this Agreement and the Transactions, including the Merger and the issuance of shares of Acquirer Series E Preferred Stock in connection therewith, upon the terms and subject to the conditions set forth herein, and Acquirer, as the sole stockholder of Merger Sub, shall, on the Closing Date immediately following execution and delivery of this Agreement, adopt this Agreement and approve the Merger.
- E. As a condition and inducement to Acquirer's and Merger Sub's willingness to enter into this Agreement, all of the Company's employees set forth on Schedule A (each, a "*Named Employee*") have each executed Acquirer's customary form of employment offer letter, together with a confidential information and invention assignment agreement containing standard non-competition language (together, an "*Offer Letter*"), to become effective upon the Closing.
- F. As a condition and inducement to Acquirer's and Merger Sub's willingness to enter into this Agreement, the Named Employees are executing a benefits waiver in favor of the Company and Acquirer in substantially the form attached hereto as Exhibit B (a "*Benefits Waiver*"), to become effective upon the Closing.

- G. As a condition and inducement to Acquirer to enter into this Agreement and in consideration for a portion of the Merger Consideration payable under this Agreement, the Company has delivered to Acquirer (i) a written consent in substantially the form attached hereto as Exhibit C (a “*Written Consent*”) executed by the Company Stockholders identified on Schedule B (the “*Consenting Stockholders*”), evidencing the obtainment of the Company Stockholder Approval, and (ii) a stockholder agreement in substantially the form attached hereto as Exhibit E (the “*Stockholder Agreement*”) executed by each Consenting Stockholder and.
- H. As a condition and inducement to Acquirer to enter into this Agreement and in consideration for a portion of the Merger Consideration payable under this Agreement, the Company has delivered to Acquirer: (i) a Joinder Agreement to this Agreement in the form attached hereto as Exhibit D-1 (the “*Joinder*”) executed by the Company Noteholders identified on Schedule C (the “*Consenting Noteholders*”) evidencing the obtainment of the Requisite Noteholder Approval, pursuant to which such Noteholder shall acknowledge that the right to receive the Note Payments is subject to indemnification obligations as set forth in Article VII herein, (ii) a debt waiver in favor of the Company and Acquirer in substantially the form attached hereto as Exhibit D-2 (the “*Debt Waiver*”) executed by the Consenting Noteholders and (iii) an executed joinder agreement or counterpart signature page to each of the Acquirer Stockholder Agreements, substantially in the form attached hereto as Exhibit D-3 (each a “*Acquirer Stockholder Agreements Joinder*”) executed by the Consenting Noteholders.

NOW, THEREFORE, in consideration of the representations, warranties, covenants, agreements and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I THE MERGER

1.1 The Merger.

(a) Merger of Merger Sub into the Company. Upon the terms and subject to the conditions set forth herein, at the Effective Time, Merger Sub shall be merged with and into the Company, and the separate existence of Merger Sub shall cease. The Company will continue as the surviving corporation in the Merger (sometimes referred to herein as the “*Surviving Corporation*”) and as a wholly owned subsidiary of Acquirer.

(b) Effects of the Merger. The Merger shall have the effects set forth herein and in the applicable provisions of the DGCL.

(c) Closing. Upon the terms and subject to the conditions set forth herein, the closing of the Transactions (the “*Closing*”) shall take place at the offices of Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, California, 94041, or at such other location as Acquirer and the Company agree, at (i) 10:00 a.m. local time on the date of this Agreement and subject to all of the conditions set forth in Article V have been satisfied or waived (other than those conditions that, by their terms, are intended to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions) or (ii) such other time as Acquirer and the Company agree. The date on which the Closing occurs is sometimes referred to herein as the “*Closing Date.*”

(d) Effective Time. A certificate of merger satisfying the applicable requirements of the DGCL in substantially the form attached hereto as Exhibit G (the “*Certificate of Merger*”) shall be duly executed by the Company and, concurrently with or as soon as practicable following the Closing,

other papers in connection with any such action or proceeding in the manner provided in Section 8.2 or in such other manner as may be permitted by Applicable Law, shall be valid and sufficient service thereof. With respect to any particular action, suit or proceeding, venue shall lie solely in the County of Santa Clara, California. A party hereto may apply either to a court of competent jurisdiction or to an arbitrator, if one has been appointed, for prejudgment remedies and emergency relief pending final determination of a claim pursuant to this Section 8.11. The appointment of an arbitrator does not preclude a party hereto from seeking prejudgment remedies and emergency relief from a court of competent jurisdiction.

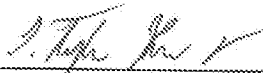
8.12 Governing Law. This Agreement, all acts and transactions pursuant hereto and all obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of California without reference to such state's principles of conflicts of law that would refer a matter to a different jurisdiction; provided that any matters related to the effectiveness of the Merger shall be governed by the laws of the State of Delaware without reference to such state's principles of conflicts of law that would refer a matter to a different jurisdiction; provided further that the Offer Letters shall be governed by the laws of the State of Washington without reference to such state's principles of conflicts of law that would refer a matter to a different jurisdiction.

8.13 Rules of Construction. The parties hereto have been represented by counsel during the negotiation, preparation and execution of this Agreement and, therefore, hereby waive, with respect to this Agreement, each Schedule and each Exhibit attached hereto, the application of any Applicable Law or rule of construction providing that ambiguities in an agreement or other document shall be construed against the party drafting such agreement or document.

[SIGNATURE PAGE NEXT]

IN WITNESS WHEREOF, Acquirer, Merger Sub, the Company and the Stockholders' Agent have caused this Agreement and Plan of Merger to be executed and delivered by their respective officers thereunto duly authorized (or with respect to the Stockholders' Agent, personally), all as of the date first written above.

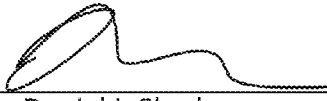
MOBILLIGY, INC.

By: 
Name: John W. Grillo
Title: CEO

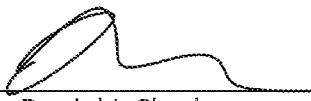
[Signature Page to Agreement and Plan of Merger]

IN WITNESS WHEREOF, Acquirer, Merger Sub, the Company and the Stockholders' Agent have caused this Agreement and Plan of Merger to be executed and delivered by their respective officers thereunto duly authorized (or with respect to the Stockholders' Agent, personally), all as of the date first written above.

PAYNEARME, INC.

By: 
Name: Daniel J. Shader
Title: CEO

POSEIDON ACQUISITION SUB, INC.

By: 
Name: Daniel J. Shader
Title: President

[Signature Page to Agreement and Plan of Merger]

IN WITNESS WHEREOF, Acquirer, Merger Sub, the Company and the Stockholders' Agent have caused this Agreement and Plan of Merger to be executed and delivered by their respective officers thereunto duly authorized (or with respect to the Stockholders' Agent, personally), all as of the date first written above.

STOCKHOLDERS' AGENT

By: 

Name: D. CHASE FRANKLIN

Title: TRUSTEE, D. CHASE FRANKLIN LIVING TRUST

[Signature Page to Agreement and Plan of Merger]