

June 30, 2016

**VIA FEDERAL EXPRESS**

Ms. Brinda Westbrook-Sedgwick  
Commission Secretary  
Public Service Commission of the District of Columbia  
1325 G Street, N.W., Suite 800  
Washington, DC 20005

**Re: Application for Approval of the Transfer of Control of InContact, Inc. to NICE Systems, Inc.**

Dear Ms. Westbrook-Sedgwick:

inContact, Inc. by its undersigned counsel, hereby submits an original and fifteen (15) copies of its Application for Approval of the Transfer of Control of InContact, Inc. to NICE Systems, Inc.

An additional copy of this transmittal letter is provided. Please date-stamp and return the additional copy of this letter in the self-addressed envelope provided.

Should you have any questions regarding the contents of this transmittal, please contact the undersigned.

Respectfully submitted,

  
Joanna G. Wallace  
Counsel for inContact, Inc.

Enclosures

RECEIVED  
DISTRICT OF COLUMBIA  
PUBLIC SERVICE COMMISSION  
2016 JUL -5 AM 8:46  
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COMMISSION SECRETARY

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF THE DISTRICT OF COLUMBIA**

In the Matter of the Joint Application of	)	
	)	
<b>inContact, Inc.</b>	)	
Transferor	)	
	)	Case No: __
and	)	
	)	
<b>NICE Systems, Inc.</b>	)	
Transferee	)	
	)	
For Approval of the Transfer of Control of	)	
inContact, Inc. to NICE Systems, Inc.	)	

**APPLICATION FOR APPROVAL OF THE TRANSFER OF CONTROL OF INCONTACT,  
INC. to NICE SYSTEMS, INC.**

inContact, Inc. f/k/a UCN, Inc. (“inContact” or “Transferor”) and NICE Systems, Inc. (“NICE Systems” or “Transferee,” and together with Transferor, the “Applicants”), pursuant to 15 DCMR § 2511.2, respectfully request authority to complete a transaction whereby NICE Systems will acquire ownership and control of inContact (“Proposed Transaction”). Applicants file this Application in connection with an Agreement and Plan of Merger dated May 17, 2016 (“Agreement”). Although the Proposed Transaction will result in a change in the ultimate ownership of inContact, no assignment of licenses, assets, or customers will occur as a consequence of the Proposed Transaction. inContact will continue to provide service to its existing customers under the same rates, terms, and conditions. Accordingly, the Proposed Transaction will be transparent to customers of inContact. The Applicants seek to consummate the Proposed Transaction as soon as practicable. In light of the many business and financial considerations affected by the timing of the approval process, Applicants respectfully request that the Public Service Commission of the District of Columbia (“Commission”) commence its examination of and approve the Proposed Transaction as quickly as possible.

**I. Description of the Applicants:**

**A. inContact, Inc.**

inContact is a Delaware corporation with principal business offices located at 75 West Towne Ridge Parkway, Tower 1, Sandy, Utah 84070-5522. inContact provides an integrated software and cloud-based call center solution in all fifty states, the District of Columbia, and Puerto Rico. The Company's primary business is its call center offering, which includes telecommunications services and Software as a Service components. The Company provides legacy 1+ domestic calling in addition to transmission to and from its cloud-based platform in support of its call center services. The call center offering enables basic call transmission (domestic and international) in conjunction with software-supported features such as call queuing, auto attendant, and analytics.

inContact was authorized to provide Competitive Local Exchange Services within the District of Columbia in Order No. 13506 on February 17, 2005. inContact is registered with the Federal Communications Commission to provide interstate telecommunications services (FCC Filer ID No. 818114), and was granted international Section 214 authority in FCC File No. ITC-214-19980407-00234. inContact is also authorized to provide local exchange and interexchange telecommunications services pursuant to registration, commission order, or on a deregulated basis in the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

## **B. NICE Systems, Inc.**

NICE Systems, Inc. is a Delaware corporation with principal business offices located at 461 From Road, 3rd Floor, Paramus, New Jersey 07652. NICE Systems is a wholly-owned direct subsidiary of NICE, Ltd. (previously named NICE-Systems, Ltd.), an Israeli company with principal business offices located at 13 Zarchin Street, P.O. Box 690, 4310602, Ra'anana, Israel. NICE Systems is a global market leader in analytics-based customer service applications. Information regarding the ownership of NICE Systems is attached hereto as **Exhibit A**.

NICE Systems has sufficient financial qualifications to consummate the Proposed Transaction and to provide adequate working capital to meet the operational needs of inContact for the foreseeable future. In addition, NICE Systems has obtained financing commitments that will enable it to consummate the Proposed Transaction.

## **II. Contact Information:**

For the purposes of this Application, questions or any correspondence, orders, or other materials should be directed to the following:

### **Transferor:**

Daniel Lloyd  
Matthew Crumley  
Gregory Ayers  
inContact, Inc.  
75 West Towne Ridge Parkway, Tower 1  
Sandy, Utah 84070-5522  
Telephone: (801) 320-3590  
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[matthew.crumley@incontact.com](mailto:matthew.crumley@incontact.com)  
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### **With a copy to Counsel:**

Allison D. Rule  
Jacqueline R. Hankins  
Joanna G. Wallace

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**Transferee:**

Jeff Levenberg  
General Counsel  
NICE Systems, Inc.  
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**With a copy to Counsel:**

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**III. Description of the Transaction**

Pursuant to the Agreement executed among NICE Systems' parent company, NICE, Ltd., inContact, and Victory Merger Sub Inc. ("Merger Sub"), NICE, Ltd. plans to acquire all of the voting securities of inContact. According to the terms of the Agreement, NICE, Ltd. will acquire ultimate ownership and control of inContact by merging Merger Sub with and into inContact (the "Merger"), with inContact surviving the Merger as a wholly-owned subsidiary of NICE Systems. NICE Systems will remain a wholly-owned subsidiary of NICE, Ltd. Applicants therefore request authority for the

transfer of control of inContact to NICE Systems. For reference, pre and post-transaction organization charts are provided as **Exhibit B**.

Following the Proposed Transaction, inContact's customers will remain customers of inContact and will continue to receive services under the same rates, terms and conditions. As a result, the Proposed Transaction will be virtually transparent to inContact's customers. The only change resulting from the Proposed Transaction will be that inContact will be a direct, wholly owned subsidiary of NICE Systems, which is well qualified to control the continuing operations of inContact.

The Proposed Transaction will not result in any assignment of licenses or assets, trigger any Federal or state anti-slamming or bulk customer transfer rules (because the certificate, customer – facing service provider will remain unchanged), or adversely affect the market for telecommunications services in the District of Columbia. The Proposed Transaction also will not adversely affect competition for the provision of telecommunications services in the District of Columbia because all of the customers served by inContact have, and following consummation of the Proposed Transaction will continue to have, access to multiple competitive alternatives. The Proposed Transaction will not affect universal service. inContact will contribute to the Universal Service Trust Fund as required. The Proposed Transaction will not affect public safety and welfare, or consumer rights.

While the Proposed Transaction will result in changes in the equity ownership of inContact, it is not expected to change or affect the day-to-day operations of inContact. The Applicants anticipate customers will benefit from the availability of additional management expertise following the acquisition by NICE Systems.

#### **IV. Public Interest Statement**

The Proposed Transaction will serve the public interest by enhancing the ability of inContact and NICE Systems to expand their respective operations and compete more effectively in the telecommunications marketplace. inContact will also have access to the financial, operational, and managerial resources of NICE Systems. Such support will strengthen the competitive position of inContact, to the benefit of the telecommunications marketplace.

Given the increasingly competitive nature of the telecommunications market, Applicants are seeking to complete the Proposed Transaction as soon as possible to ensure that customers can obtain rapidly the benefits of the Proposed Transaction. Accordingly, Applicants respectfully request that the Commission process, consider and approve this Application as expeditiously as possible.

#### **V. Conclusion**

For the reasons stated above, Applicants respectfully submit that the public interest, convenience and necessity would be furthered by a grant of this Application. Applicants therefore respectfully request that the Commission consider and approve this Application expeditiously to permit Applicants to consummate the Proposed Transaction as soon as possible.

Respectfully submitted,



Allison D. Rule  
Jacqueline R. Hankins  
Joanna G. Wallace  
MARASHLIAN & DONAHUE, PLLC  
The *Comm*Law Group  
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*Counsel for inContact, Inc.*

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*Counsel for NICE Systems, Inc.*

Filed: June 30, 2016



## **EXHIBIT A**

### **Pre and Post-Transaction Ownership of NICE Systems, Inc.**

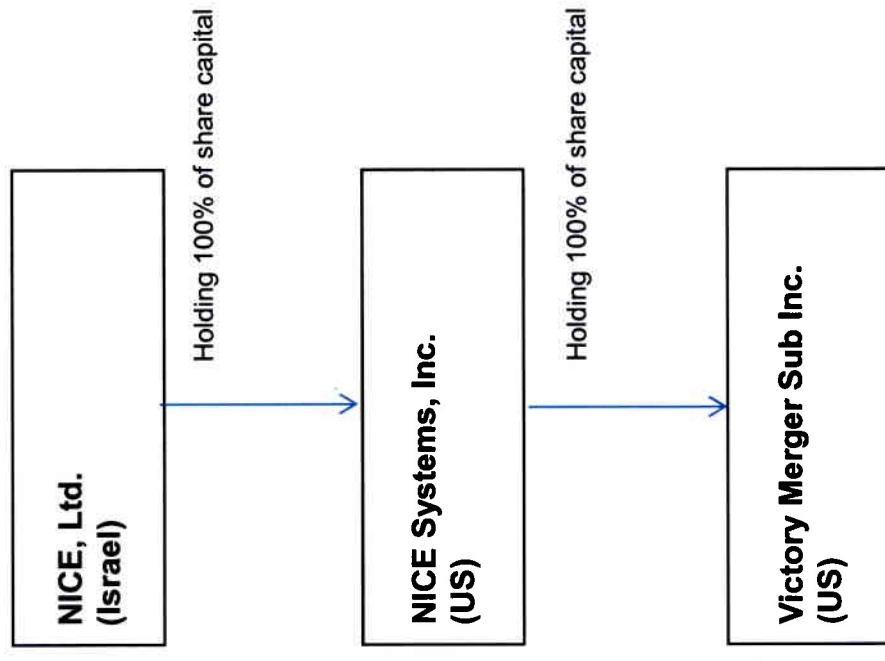
The following entities and persons hold a 10% or greater direct ownership interest in NICE Systems:

NICE, Ltd.  
13 Zarchin Street, P.O. Box 690, 4310602  
Ra'anana, Israel  
County of Citizenship: Israel  
Percentage of Equity Interest Held: 100 %

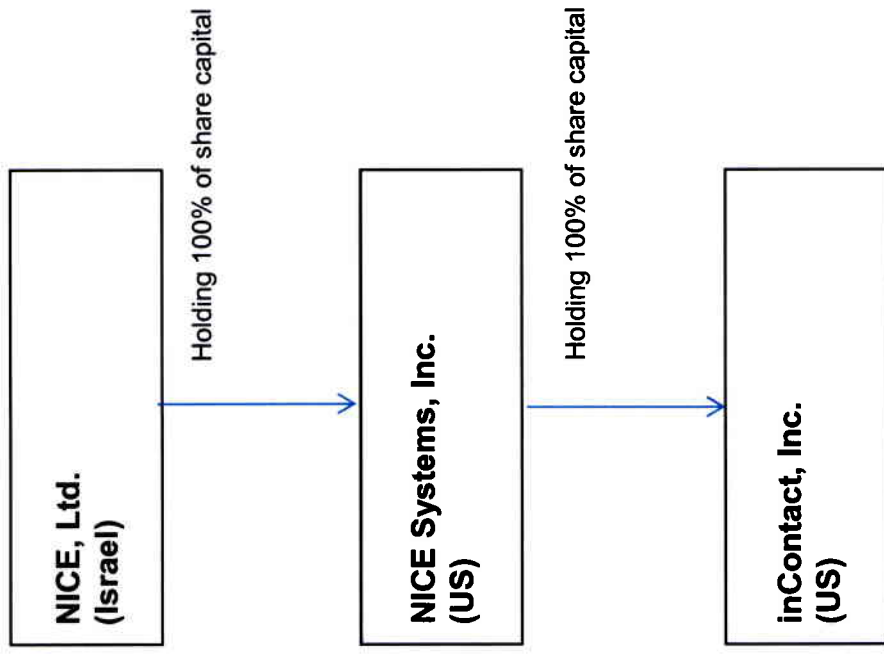
NICE, Ltd. is a widely-held company listed on the NASDAQ and the Tel Aviv Stock Exchange. No individual or entity directly or indirectly owns 10 percent or more of NICE, Ltd. currently or will own such an interest after the Proposed Transaction.

## **EXHIBIT B**

# NICE – Legal Entity Structure – Current Status



# NICE – Legal Entity Structure – Post Merger



### **Certification**

I, Daniel G. Lloyd, hereby certify under penalty of perjury that I am the Corporate Secretary and General Counsel of inContact, Inc. ("inContact"); that I am authorized to make this certification on behalf of inContact; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to inContact are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24<sup>th</sup> day of June, 2016.



Daniel G. Lloyd  
Corporate Secretary and General Counsel  
inContact, Inc.

### **Certification**

I, Thomas Dzersk hereby certify under penalty of perjury that I am President of NICE Systems, Inc. ("NICE Systems"); that I am authorized to make this certification on behalf of NICE Systems; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to NICE Systems are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28<sup>th</sup> day of June, 2016.

A handwritten signature in black ink, appearing to read 'Z D ZK', written over a horizontal line.

Thomas Dzersk  
President  
NICE Systems, Inc.