

RESPONSYS INC
Form SC TO-T
January 08, 2014

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO
TENDER OFFER STATEMENT UNDER SECTION 14(D)(1)
OR 13(E)(1) OF THE SECURITIES EXCHANGE ACT OF 1934
RESPONSYS, INC.

(Name of Subject Company (Issuer))

RAPTOR OAK ACQUISITION CORPORATION

(Offeror)

a wholly owned direct subsidiary of

OC ACQUISITION LLC

(Direct Parent of Offeror)

a wholly owned direct subsidiary of

ORACLE CORPORATION

(Oracle of Offeror)

(Names of Filing Persons)

Common Stock, Par Value \$0.0001 Per Share

(Title of Class of Securities)

761248103

(Cusip Number of Class of Securities)

Dorian Daley

Senior Vice President, General Counsel and Secretary

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Oracle Corporation

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:

Richard Climan

Keith Flaum

Weil, Gotshal & Manges LLP

201 Redwood Shores Parkway

Redwood City, California 94065

Telephone: (650) 802-3000

CALCULATION OF FILING FEE

| | |
|-------------------------------|-------------------------------|
| Transaction Valuation* | Amount of Filing Fee** |
| \$1,564,534,062 | \$201,512 |

*
 Estimated solely for purposes of calculating the filing fee. This calculation is based on the offer to purchase all of the issued and outstanding shares of common stock, par value \$0.0001 per share, of Responsys, Inc. (the Company), at a purchase price of \$27.00 per share, net to the seller in cash, without interest thereon and subject to any required tax withholding. Such shares consist of: (i) 51,870,830 shares of common stock of the Company that were issued and outstanding as of January 6, 2014; (ii) 6,011,026 shares of common stock of the Company potentially issuable upon exercise of outstanding exercisable in-the-money stock options as of January 6, 2014; and (iii) up to 63,850 shares of common stock of the Company subject to outstanding restricted stock units of the Company outstanding as of January 6, 2014 that may undergo accelerated vesting and be settled for shares of common stock of the Company in connection with the Offer. The foregoing figures have been provided by the issuer to the offeror and are as of January 6, 2014, the most recent practicable date.

**
 The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2014, issued August 30, 2013, by multiplying the transaction value by 0.00012880.

..
 Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

| | |
|---------------------------|---------------|
| Amount Previously Paid: | Filing Party: |
| Form or Registration No.: | Date Filed: |

..
 Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

x
 third-party tender offer subject to Rule 14d-1.

..

issuer tender offer subject to Rule 13e-4.

..

going-private transaction subject to Rule 13e-3.

..

amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer.

This Tender Offer Statement on Schedule TO (together with any amendments and supplements hereto, this Schedule TO) is filed by Raptor Oak Acquisition Corporation, a Delaware corporation (Purchaser), a wholly owned subsidiary of OC Acquisition LLC, a Delaware limited liability company (Parent), which is a wholly owned subsidiary of Oracle Corporation, a Delaware corporation (Oracle). This Schedule TO relates to the offer by Purchaser to purchase all of the issued and outstanding shares of common stock, par value, \$0.0001 per share (the Shares), of Responsys, Inc., a Delaware corporation (the Company), at a purchase price of \$27.00 per Share (the Offer Price) net to the seller in cash, without interest thereon and subject to any required tax withholding, upon the terms and subject to the conditions set forth in the Offer to Purchase and in the related Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(1)(A) and (a)(1)(B), respectively.

All information contained in the Offer to Purchase (including Schedule I to the Offer to Purchase) and the accompanying Letter of Transmittal is hereby expressly incorporated herein by reference in response to Items 1 through 9 and Item 11 of this Schedule TO.

The Agreement and Plan of Merger, dated as of December 20, 2013 (as it may be amended from time to time, the Merger Agreement), by and among the Company, Parent, Purchaser and (solely with respect to performance of its obligations set forth in certain specified sections thereof) Oracle, a copy of which is attached as Exhibit (d)(1) hereto, and the Tender and Support Agreements, dated as of December 20, 2013 (as they may be amended from time to time, the Tender and Support Agreements) with Accel VI LP, Accel VI-S LP, Accel Internet Fund II LP, Accel Investors LP, Accel Investors 98-S LP, Accel Keiretsu VI LP, Antonio Casacuberta, Robert W. Frick, Edwin Gillis, Bruce Golden, Gregory C. Gretsche Trust DTD 1/28/2000, Gregory C. Gretsche, Edward A. Henrich, The Michael N. and Mary G. Schuh 1990 Family Trust, Scott Olrich, Julian Ong, Chris Paul, Andrew W. Priest, Michael Schuh, Donald E. Smith and Dan Springer, a copy of the form of which is attached as Exhibit (d)(2) hereto, are incorporated herein by reference with respect to Items 4, 5, 6 and 11 of this Schedule TO. 98

Item 1. Summary Term Sheet.

The information set forth in the Summary Term Sheet of the Offer to Purchase is incorporated herein by reference.

Item 2. Subject Company Information.

(a) The name of the subject company and the issuer of the securities to which this Schedule TO relates is Responsys, Inc., a Delaware corporation. The Company's principal executive offices are located at 100 Grundy Lane, 3rd Floor, San Bruno, California 94066. The Company's telephone number is (650) 745-1700.

(b) This Schedule TO relates to the outstanding shares of common stock, par value \$0.0001 per share, of the Company. The Company has advised Purchaser, Parent and Oracle that, as of January 6, 2014 (the most recent practicable date) 51,870,830 Shares were issued and outstanding.

(c) The information set forth in Section 6 (entitled Price Range of Shares; Dividends) of the Offer to Purchase is incorporated herein by reference.

Item 3. Identity and Background of the Filing Person.

(a) - (c) This Schedule TO is filed by Purchaser, Parent and Oracle. The information set forth in Section 8 (entitled Certain Information Concerning Oracle, Parent and Purchaser) of the Offer to Purchase and Schedule I to the Offer to Purchase is incorporated herein by reference.

Item 4. Terms of the Transaction.

(a)(1)(i) (viii), (xii), (a)(2)(i) (iii), (vii) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction
the Summary Term Sheet
Section 1 Terms of the Offer
Section 2 Acceptance for Payment and Payment for Shares
Section 3 Procedures for Accepting the Offer and Tendering Shares
Section 4 Withdrawal Rights
Section 5 Certain United States Federal Income Tax Consequences of the Offer
Section 11 The Merger Agreement; Other Agreements
Section 12 Purpose of the Offer; Plans for the Company
Section 13 Certain Effects of the Offer
Section 15 Conditions of the Offer
Section 16 Certain Legal Matters; Regulatory Approvals
Section 17 Appraisal Rights
Section 19 Miscellaneous

(a)(1)(ix) (xi), (a)(2)(iv) (vi) Not applicable.

Item 5. Past Contacts, Transactions, Negotiations and Agreements.

(a), (b) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction
the Summary Term Sheet
Section 8 Certain Information Concerning Oracle, Parent and Purchaser
Section 10 Background of the Offer; Past Contacts or Negotiations with the Company
Section 11 The Merger Agreement; Other Agreements
Section 12 Purpose of the Offer; Plans for the Company
Schedule I

Item 6. Purposes of the Transaction and Plans or Proposals.

(a), (c)(1)-(7) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Introduction
the Summary Term Sheet
Section 10 Background of the Offer; Past Contacts or Negotiations with the Company
Section 11 The Merger Agreement; Other Agreements
Section 12 Purpose of the Offer; Plans for the Company
Section 13 Certain Effects of the Offer
Schedule I

Item 7. Source and Amount of Funds or Other Consideration.

(a), The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 9 Source and Amount of Funds

(b), (d) Not applicable.

Item 8. Interest in Securities of the Subject Company.

(a) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 8 Certain Information Concerning Oracle, Parent and Purchaser

Section 11 The Merger Agreement; Other Agreements

Section 12 Purpose of the Offer; Plans for the Company

Schedule I

(b) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 8 Certain Information Concerning Oracle, Parent and Purchaser ;

Schedule I

Item 9. Persons/Assets, Retained, Employed, Compensated or Used.

(a) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

the Summary Term Sheet

Section 3 Procedures for Accepting the Offer and Tendering Shares

Section 10 Background of the Offer; Past Contacts or Negotiations with the Company

Section 18 Fees and Expenses

Item 10. Financial Statements.

Not applicable.

Item 11 Additional Information.

(a)(1) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 8 Certain Information Concerning Oracle, Parent and Purchaser

Section 11 The Merger Agreement; Other Agreements

Section 10 Background of the Offer; Past Contacts or Negotiations with the Company

Section 12 Purpose of the Offer; Plans for the Company

(a)(2) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 12 Purpose of the Offer; Plans for the Company

Section 15 Conditions of the Offer

Section 16 Certain Legal Matters; Regulatory Approvals

(a)(3) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

| | |
|------------|---|
| Section 15 | Conditions of the Offer |
| Section 16 | Certain Legal Matters; Regulatory Approvals |

(a)(4) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 13 Certain Effects of the Offer

(a)(5) The information set forth in the following sections of the Offer to Purchase is incorporated herein by reference:

Section 16 Certain Legal Matters; Regulatory Approvals

Item 12. Exhibits.

| Exhibit No. | Description |
|--------------------|--|
| (a)(1)(i) | Offer to Purchase dated January 8, 2014.* |
| (a)(1)(ii) | Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on IRS Form W-9).* |
| (a)(1)(iii) | Notice of Guaranteed Delivery.* |
| (a)(1)(iv) | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.* |
| (a)(1)(v) | Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.* |
| (a)(1)(vi) | Summary Advertisement dated January 8, 2014.* |
| (a)(5)(i) | Press Release issued by Oracle Corporation on December 20, 2013 (incorporated by reference to the Schedule TO filed by Oracle Corporation on December 20, 2013). |
| (a)(5)(ii) | General Presentation issued by Oracle Corporation on December 20, 2013 (incorporated by reference to the Schedule TO filed by Oracle Corporation on December 20, 2013). |
| (a)(5)(iii) | FAQ issued by Oracle Corporation on December 20, 2013 (incorporated by reference to the Schedule TO filed by Oracle Corporation on December 20, 2013). |
| (a)(5)(iv) | Customer and Partner Letter issued by Oracle Corporation on December 20, 2013 (incorporated by reference to the Schedule TO filed by Oracle Corporation on December 20, 2013). |
| (a)(5)(v) | Website materials published by Oracle Corporation on December 20, 2013 (incorporated by reference to the Schedule TO filed by Oracle Corporation on December 20, 2013). |
| (b) | Not applicable. |
| (d)(1) | Agreement and Plan of Merger, dated as of December 20, 2013, among Responsys, Inc., OC Acquisition LLC, Raptor Oak Acquisition Corporation and (solely with respect to performance of its obligations set forth in certain specified sections thereof) Oracle Corporation (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by Responsys, Inc. with the SEC on December 20, 2013). |
| (d)(2) | Form of Tender and Support Agreement (incorporated by reference to Exhibit A to Exhibit 2.1 to the Current Report on Form 8-K filed by Responsys, Inc. with the SEC on December 20, 2013). |
| (d)(3) | Confidential Disclosure Agreement for Strategic Matters, effective as of December 8, 2013, between Oracle Corporation and Responsys, Inc. (incorporated by reference to Exhibit (e)(2) to the Schedule |

14D-9 filed by Responsys, Inc. on January 8, 2014).

(d)(4) Exclusivity Agreement, dated as of December 12, 2013, between Responsys, Inc. and Oracle Corporation (incorporated by reference to Exhibit (e)(3) to the Schedule 14D-9 filed by Responsys, Inc. on January 8, 2014).

(e) Not applicable.

(g) Not applicable.

(h) Not applicable.

*Filed herewith

Item 13. Information Required by Schedule 13E-3.

Not applicable.

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Date: January 8, 2014

Raptor Oak Acquisition Corporation

By: /s/ Dorian E. Daley

Name: Dorian E. Daley
Title: President

OC Acquisition LLC

By: /s/ Dorian E. Daley

Name: Dorian E. Daley
Title: President

Oracle Corporation

By: /s/ Dorian E. Daley

Name: Dorian E. Daley
Title: Senior Vice President, General
Counsel and Secretary

EXHIBIT INDEX

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| (g) | Not applicable. |
| (h) | Not applicable. |

* Filed herewith